

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "I" MUMBAI**

**BEFORE SHRI RAVISH SOOD (JUDICIAL MEMBER) AND
SHRI N.K.PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 3168/MUM/2003
C.O. No.102/Mum/2003
(Arising out of ITA No.3168/Mum/2003)
(Assessment Year: 1998-99)**

Jt. DIT(IT)-3
Room No.621, 6th Floor,
Aayakar Bhavan,
Mumbai – 400020

M/s Freight Connection India Pvt.
Ltd., R/A of M/s Bay Line,
Mauritius

PAN No. AAACF2188H

Appellant

Respondent

**ITA No. 2155/MUM/2005
(Assessment Year:2001-02)**

DDIT(IT)-1(1)
Room No.117, 1st Floor,
Scindia House, Ballard Estate,
Mumbai – 400 038

M/s Freight Connection India Pvt.
Vs. (as agents of M/s Arc Line)
(Mauritius), Cambata Building,
4th Floor, 101, M.K. Road,
Churchgate,
Mumbai – 400 020

PAN No. AAACF2188H

Appellant

Respondent

Revenue by : Shri Avaneesh Tiwari, Sr.D.R
Assessee by : Shri Arpit Jain, A.R

Date of Hearing : 22/01/2020
Date of pronouncement : 22/01/2020

ORDER

PER BENCH:

The present appeals filed by the revenue are directed against the respective orders passed by the Commissioner of Income Tax (Appeals)-XXXI, Mumbai [for short 'CIT(A)'] dated 15.01.2003 and 31.12.2004 for A.Y. 1998-99 and A.Y. 2001-02, respectively. Also, the assessee is before us by way of a cross-objection arising from the appeal of the revenue for A.Y. 1998-99.

2. Central Board of Direct Taxes (CBDT) vide Circular No. 17/2019 dated 08.08.2019 has amended Circular No. 3/2018 dated 11.07.2018 for further enhancement of monetary limit for filing of appeals by the Department before the ITAT, High Courts and SLPs/Appeals before Supreme Court as measures for reducing litigation.

3. CBDT vide Circular No. 3/2018 dated 11.07.2018 has specified that appeals shall not be filed before the Income Tax Appellate Tribunal (ITAT) in cases where the tax effect does not exceed the monetary limit of Rs.20,00,000/-. For this purpose, 'tax effect' means the difference between the tax on the total income assessed and the tax that would have been chargeable had such total income been reduced by the amount of income in respect of issues against which appeal is intended to be filed. Further, 'tax effect' shall be taxes including applicable surcharge and cess. However, the tax will not include any interest thereon, except where chargeability of interest itself is in dispute. In case the chargeability of interest is the issue under dispute, the amount of interest shall be the 'tax effect'. In cases where returned loss is reduced or assessed as income, the 'tax effect' would include notional tax on disputed additions. In case of penalty order, the 'tax effect' will mean quantum of penalty deleted or reduced in the order to be appealed against.

At para 13 of the above Circular, it has been mentioned that:

"13. This Circular will apply to SLPs/appeals/cross objection/references to be filed henceforth in SC/HCs/Tribunal and it shall also apply retrospectively to pending SLPs/appeals/cross objections/references. Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed."

4. As a step towards further management of litigation, CBDT vide Circular No. 17/2019 has fixed the monetary limit for filing of appeals before ITAT at Rs.50,00,000/-.

5. In the instant appeals filed by the Department, the tax effect involved is below the monetary limit of Rs.50,00,000/-. The same was brought to the notice of the Ld. Departmental Representative (DR), who had admitted the said fact.

6. Before us, the Ld. D.R submits that liberty may kindly be given to raise, after necessary further verification and to seek recall of the dismissal of the appeals and their restoration, in case it can be shown that they are covered by the exceptions.

7. We agree with the above contentions of the Ld. DR and make it clear that the appellant shall be at liberty to point out the exceptions and we will take appropriate remedial measures in this regard.

8. With the above observations the captioned appeals involving a 'tax effect' of less than Rs.50,00,000/- are dismissed. As we have dismissed the appeal of the revenue for A.Y. 1998-99 in ITA No. 3168/Mum/2003 on account of low tax effect, therefore, the cross-objection filed by the assessee i.e C.O. No. 102/Mum/2003 cannot survive on a standalone basis and has to meet the same fate. Accordingly, the C.O. No. 102/Mum/2003 (arising out of ITA No. 3168/Mum/2003) having been rendered as infructuous is also dismissed.

9. The appeals of the revenue for A.Y. 1998-99 i.e ITA No. 3168/Mum/2003 and for A.Y. 2001-02 i.e ITA No. 2155/Mum/2005, as well as the cross-objection of the assessee for A.Y. 1998-99 i.e C.O. No. 102/Mum/2003 (arising out of ITA No. 3168/Mum/2003) are dismissed.

Order pronounced in the open Court on 22/01/2020.

Sd/-
(N.K. Pradhan)
ACCOUNTANT MEMBER

Sd/-
(Ravish Sood)
JUDICIAL MEMBER

Mumbai;

Dated: 22/01/2020

Rohit, P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,
//True Copy//
(Sr. Private Secretary)
ITAT, Mumbai