

IN THE INCOME TAX APPELLATE TRIBUNAL

“C” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER AND

SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 2290/Bang/2018
Assessment Year : 2005 – 06

ACIT, Circle – 2 (2) (1), Bangalore	vs.	M/s NTI Housing Co Operative Society, No. 84, 1 st Floor, “Sun Smile” Kumara Park West, Bengaluru – 560020 PAN: AAAAN0134H
APPELLANT		RESPONDENT

C. O. No. 127/ Bang/2018
Assessment Year : 2005 – 06

APPELLANT		RESPONDENT	
Assessee by	:	Shri G. S. Prasanth, C. A.	
Revenue by	:	Smt. R. Premi, JCIT (DR)	
Date of hearing	:	06.07.2020	
Date of Pronouncement	:	06.07.2020	

ORDER

Per Shri A. K. Garodia, Accountant Member

This appeal is filed by the revenue and the C. O. is filed by the assessee and these are directed against the order of CIT (A) – 6, Bangalore dated 05.03.2018.

2. At the very outset, the bench pointed out that the total addition made by the AO is of Rs. 105 Lacs only and hence, even if total addition is deleted by CIT (A) and revenue is disputing total such deletion then also, the tax effect cannot be more than Rs. 50 lacs and therefore, this appeal of the revenue is not maintainable because of low tax effect.

The bench also observed that since the appeal of the revenue is not maintainable, the C. O. is also not maintainable. In reply, learned AR of the assessee had nothing to say but learned DR of the revenue submitted that the grounds raised by the revenue are about legal issue i.e. whether the proceedings of reopening u/s 148 are maintainable or not. She submitted that even if the

appeal is dismissed because of low tax effect, liberty should be granted to the revenue to seek recall of this order u/s 254 (2) if the AO finds that the present case is covered by an exemption to the CBDT Instructions in this regard. The learned AR of the assessee submitted that if such a situation arises and the order of the tribunal is recalled then it should be recalled for the appeal of the revenue as well as C. O. of the assessee.

3. In view of the above discussion, we dismiss the appeal of the revenue in view of CBDT instructions about non maintainability of the appeals of the revenue because of low tax effect and since the appeal of the revenue is not maintainable, we hold that the C. O. of the assessee is also not maintainable and we dismiss the C. O. of the assessee also. We also grant liberty to the revenue to approach the tribunal u/s 254 (2) of IT Act for recall of this tribunal order if the AO finds that the present case is covered by an exemption to the CBDT Instructions in this regard and if the tribunal considers it fit to recall the tribunal order regarding the appeal of the revenue being dismissed because of low tax effect, in that situation, the tribunal order in respect of C. O. of the assessee should also be recalled because the C. O. of the assessee is being dismissed as a consequence of the dismissal of the appeal of the revenue.

4. In the result, the appeal of the revenue and the C. O. of the assessee are dismissed.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(PAVAN KUMAR GADALE)
Judicial Member
Bangalore,
Dated, the 6th July, 2020.

/MS/

Copy to:

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

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Bangalore.