

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

**BEFORE SHRI MAHAVIR SINGH (VICE PRESIDENT) AND  
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 7725/MUM/2019  
Assessment Year: 2009-10  
&**

**ITA No. 7726/MUM/2019  
Assessment Year: 2010-11  
&**

**ITA No. 426/MUM/2020  
Assessment Year: 2011-12**

Income Tax Officer-23(3)(2),  
Room No. 119, 1<sup>st</sup> floor, Matru  
Mandir, Grant Road, Tardeo  
Road, Mumbai-400007.

Vs. Sandhya Enterprises,  
107, A-Wing, Rizvi Chamber, Hill  
Road, Bandra (West),  
Mumbai-400050.

**Appellant**

**PAN No. ACHFS3893C  
Respondent**

Revenue by : Mr. V. Vinod Kumar, DR  
Assessee by : Mr. Prakash Jhunjunwala, AR

Date of Hearing : 31/08/2020  
Date of pronouncement : 31/08/2020

**ORDER**

**PER BENCH**

The captioned appeals filed by the Revenue are directed against the order of the Commissioner of Income Tax (Appeals)-34, Mumbai [in short 'CIT(A)'] and arise out of assessments completed u/s 143(3) r.w.s. 147 of the Income Tax Act 1961, (the 'Act'). Since common issues are involved, we are proceedings to dispose them off through a consolidated order.

The Central Board of Direct Taxes (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."

2. Further, *vide* Circular No. 17/2019 dated 08.08.2019, the CBDT has enhanced the monetary limit for filing appeals in income tax cases before the Appellate Tribunal to Rs.50,00,000/-. In the above Circular, it is clarified that :

"3. Further, with a view to provide parity in filing of appeals in scenarios where separate order is passed by higher appellate authorities for each assessment

year vis-a-vis where composite order for more than one assessment years is passed. para 5 of the circular is substituted by the following para:

"5. The Assessing Officer shall calculate the tax effect separately for every assessment year in respect of the disputed issues in the case of every assessee. If, in the case of an assessee, the disputed issues arise in more than one assessment year, appeal can be filed in respect of such assessment year or years in which the tax effect in respect of the disputed issues exceeds the monetary limit specified in para 3. No appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. Further, even in the case of composite order of any High Court or appellate authority which involves more than one assessment year and common issues in more than one assessment year, no appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. In case where a composite order/judgement involves more than one assessee, each assessee shall be dealt with separately."

3. Before us, the Ld. counsel for the assessee submits that the Ld. CIT(A) *vide* order dated 12.09.2019 has deleted the addition of Rs.98,00,000/- for AY 2009-10 and addition of Rs.1,22,18,000/- for AY 2010-11. Further, it is stated by him that the Ld. CIT(A) *vide* order dated 28.10.2019 has deleted the addition of Rs.74,65,500/- for AY 2011-12.

Thus the Ld. counsel explains that the tax on disputed issue is Rs.30,28,200/- for AY 2009-10, Rs.37,75,362/- for AY 2010-11 and Rs.23,06,840/- for AY 2011-12.

Stating the above, the Ld. counsel submits that as the tax effects for the impugned assessment years are less than Rs.50,00,000/-, the Department's appeal be dismissed by following the CBDT Circular No. 17/2019 dated 08.08.2019.

4. We asked the Ld. Departmental Representative (DR) to clarify whether the issues herein fall in exception carved out in the abovementioned Circular. It is stated by him that the issues herein do not fall in the exceptions enumerated in the said Circular.

5. In view of the facts and circumstances, these appeals involving tax effect of less than Rs.50,00,000/- are dismissed as withdrawn.

**Order pronounced in the open Court on 31/08/2020.**

Sd/-  
(MAHAVIR SINGH)  
VICE PRESIDENT

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

Mumbai;

Dated: 31/08/2020

*Rahul Sharma, Sr. 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.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**