

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "D", MUMBAI**

**BEFORE SHRI RAJESH KUMAR (AM) AND SHRI RAM LAL NEGI (JM)**

**ITA No. 3912/MUM/2018  
Assessment Year: 2011-12**

The Deputy Commissioner of Income Tax, Central Circle – 4(1), Central Range- 4, Pr. CIT (2), R. No. 1916, 19 <sup>th</sup> Floor, Air India Building, Nariman Point, Mumbai - 400021 <b>(Appellant)</b>	<b>Vs.</b>	Shri Rajkumar S Singh, G-1, Thakur House, Ashok Nagar, Kandivali (E), Mumbai - 400101 PAN: AAPPS3162E <b>(Respondent)</b>
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Revenue by : Shri Rajeev Gubgotra (DR)  
Assessee by : Shri Nikhil Tiwari (AR)

Date of Hearing: 04/08/2020  
Date of Pronouncement: 07/08/2020

**ORDER**

**PER RAM LAL NEGI, JM**

This appeal has been filed by the revenue against the order dated 28.03.2018 passed by the Ld. Commissioner of Income Tax (for short 'the (CIT (A) 52, Mumbai, for the assessment year 2011-12, whereby the Ld. CIT A) has partly allowed the appeal filed by the assessee against the assessment order passed u/s 143 (3) r.w.s. 153C of the Income Tax Act, 1961 (for short the 'Act').

3. The revenue has challenged the order of the Ld. CIT (A) on the following effective ground:

*“On the facts and in the circumstances of the case and in law, the Ld. CIT (A) erred in holding that total income cannot be assessed/reassessed u/s 153A, if there is no findings of the search and if the assessment were complete on the day of the search.”*

4. At the outset, the Ld. counsel for the respondent/assessee pointed out that the tax effect of the relief granted by the Ld. Commissioner of Income Tax (Appeals) is below Rs. 50 lacs and as per Circular No.17 of 2019 dated 08.08.2019 issued by the Central Board of Direct Taxes (CBDT), Department of Revenue, Ministry of Finance, Government of India, the CBDT has revised the monetary limit for filing appeals before the ITAT from the existing limit of Rs. 20 lacs to Rs. 50 lacs. In the light of the aforesaid facts, the Ld. counsel submitted that this appeal is not maintainable and liable to be dismissed.

5. The Ld. Departmental Representative (DR) fairly admitted that this appeal is not maintainable in light of the Circular aforesaid issued by the CBDT, however, submitted that the department may be given liberty to file miscellaneous application in case it is found that the case falls under any of the exceptions provided in the Circular or otherwise maintainable.

6. We have gone through the impugned order passed by the Ld. Commissioner of Income Tax (Appeals) and the grounds of appeals. As pointed out by the Ld. counsel, the tax effect in this appeal is less than Rs. 50 lacs. Accordingly, we dismiss the aforesaid appeal filed by the Revenue as not maintainable/withdrawn. However, in case, it is found that the case falls under any of the exceptions provided in the Circular or otherwise maintainable, then the revenue is at liberty to file miscellaneous application for recalling the order of the Tribunal for deciding the appeal afresh on merits.

In the result, appeal filed by the revenue for assessment year 2011-2012 is dismissed.

Order pronounced on 7<sup>th</sup>. August, 2020 under Rule 34(4) of the Income Tax Appellate Tribunal Rules, 1963.

*Sd/-*  
(RAJESH KUMAR)

ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated:

*Sd/-*  
(RAM LAL NEGI)

JUDICIAL MEMBER

07/08/2020

Alindra, PS

**आदेश प्रतिलिपि अग्रेषित/ Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /  
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / **ITAT, Mumbai**