

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

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

**ITA No. 1272/MUM/2019
Assessment Year: 2013-14**

The Dy. Commissioner of Income Tax -14 (1)(1), Room No. 481/2, 4 th Floor, Aayakar Bhavan, Maharashi Karve Road, Mumbai - 400020	Vs.	M/s Areva India Pvt. Ltd., 501-502, 5 th Floor, El. Tara Building, Orchid Avenue, Hiranandani Garden, Powai, Mumbai - 400076 PAN: AAHCA3586B
(Appellant)		(Respondent)

Revenue by: Shri Michael Jerald (DR)

Assessee by : None

Date of Hearing: 24/02/2020

Date of Pronouncement: 24/02/2020

ORDER

PER RAM LAL NEGI, JM

This appeal has been filed by the revenue against the order dated 28.11.2018 passed by the Ld. Commissioner of Income Tax (Appeals) -22 (for short 'the CIT(A) Mumbai, for the assessment year 2013-14, whereby the Ld. CIT(A) has partly allowed the appeal filed by the assessee against the assessment order passed u/s 143 (3) of the Income Tax Act, 1961 (for short the 'Act').

2. The revenue has challenged the impugned order passed by the Ld. CIT (A) on the following effective grounds:-

1. *"Whether on the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in deleting the disallowance of Employees contribution to Provident Fund amounting to Rs. 1,46,38,214/-, which remained to be deposited within the due date without having regard to the provisions of Section 2(2)(x).*
2. *Whether on the facts and circumstances of the case and in law, the Ld. CIT (A) has erred in holding that the amended proviso to Section 43B is applicable to Employees' Contribution to PF also."*

3. This case was fixed for today for final hearing. However, when the case was called out for hearing, none appeared on behalf of the respondent/assessee. We notice that the tax effect of the relief granted by the Ld. Commissioner of Income Tax (Appeals) in the present case 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 present appeal is not maintainable. Accordingly, we decided to dispose of the present appeal on the basis of material on record after hearing the Ld. Departmental Representative (DR).

4. The Ld. DR fairly admitted that the tax effect in the present case is below Rs. 50 lacs, however, submitted that the appeal may be dismissed with liberty to the revenue to file miscellaneous application in case it is found that the case falls under any of the exceptions provided in the Circular.

5. We have gone through the impugned order passed by the Ld. CIT(A) and the grounds of appeal raised by the revenue. Vide the aforesaid Circular the CBDT has enhanced the monetary limit for filing appeals before the ITAT from the existing limit of Rs. 20 lacs to Rs. 50 lacs. Since, the tax effect in the present appeal is less than Rs. 50 lacs, this appeal is not maintainable. Hence, we dismiss the 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, the revenue is at liberty to file miscellaneous application for recalling the order of the Tribunal.

In the result, appeal filed by the revenue for assessment year 2013-2014 is dismissed.

Order pronounced in the open court 24th February, 2020.

Sd/-

(RAJESH KUMAR)

ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated: 24/02/2020

Sd/-

(RAM LAL NEGI)

JUDICIAL MEMBER

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