

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI

BEFORE SHRI RAJESH KUMAR, AM AND SHRI AMARJIT SINGH, JM

आयकर अपील सं/ I.T.A. No.4203/Mum/2017

(निर्धारण वर्ष / Assessment Year: 2007-08)

Income Tax Officer-12(1)(3) Room No. 145A, 1 st Floor, Aayakar Bhavan, M. K. Road, Mumbai-400020.	बनाम/ Vs.	M/s. Balaji Textile Mills Pvt. Ltd A-601, Kent Residency, Chandavarkar Extension Road, Borivali (W), Mumbai-400092.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACCB7849P		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
Revenue by:	Ms. Kavita P. Kausik (Sr. DR)	
Assessee by:	Shri Hero Rai	

सुनवाई की तारीख / Date of Hearing: 21/09/2020

घोषणा की तारीख /Date of Pronouncement: 28/10/2020

आदेश / ORDER

PER AMARJIT SINGH, JM:

The revenue has filed the present appeal against the order dated 31.03.2017 passed by the Commissioner of Income Tax (Appeals)-20, Mumbai [hereinafter referred to as the “CIT(A)”] relevant to the A.Y. 20047-08.

2. The Ld. Representative of the assessee has argued that the tax effect of quantum order under dispute is less than monetary limit of Rs. 50 Lacs as prescribed by Central Board of Direct Taxes (CBDT) in its recently issued Circular No. 17/2019 dated 08.08.2019 (F. No.279/Misc.142/2007-TTJ(Pt.) Government of India, Ministry of



Finance, Department of Revenue), therefore, the present appeal is not maintainable. On the other hand, the Ld. Representative of the Department has refuted the said contentions and argued that the issue in dispute is under exception in view of the CBDT Circular No. 23 of 2019 dated 06.09.2019 read with office memorandum dated 16.09.2019. Therefore, the appeal is not liable in view of the Circular dated 08.08.2019. The Ld. Representative of the assessee has also relied upon the decision of the Hon'ble ITAT bearing 6003/M/2017 dated 28.11.2019.

3. We have heard the arguments advanced by the Ld. Representative of the parties and perused the record. We find that the issue has been covered by the decision of Hon'ble ITAT bearing ITA. No.6003/M/2017 dated 28.11.2019. The relevant finding is hereby reproduced as under.:-

“4. Upon perusal of case records, prima facie, it appears that the tax effect being contested by the revenue is less than prescribed limit of Rs.50 Lacs and the same is covered by recently issued low tax effect Circular No.17/2019 dated 08/08/2019 issued by Central Board of Direct Taxes [CBDT]. This recent circular further enhances the monetary limit fixed in earlier Circular No.3 of 2018 dated 11/07/2018 issued by CBDT as amended on 20/08/2018. Undisputedly, the factual matrix is not covered by any of the exceptions as provided in para-10 of Circular no. 3 of 2018 dated 11/07/2018. So far as the exceptions as provided in subsequent CBDT Circular No. 23 of 2019 dated 06/09/2019 read with office memorandum dated 16/09/2019 is concerned, upon perusal of the same, we find that the same applies only to cases involving bogus long term capital gains (LTCCG) / Short Term Capital Loss (STCL) through penny stocks and not applicable to the cases of unexplained share application money.

5. We have gone through the circular and find that the tax effect in dispute is below prescribed limit of Rs.50 Lacs and the assessee stood



benefitted by the above circular issued by CBDT wherein the minimum monetary limit for filing the appeals before various appellate authorities have been fixed as under: -

Sr. No.	Appeals/ SLPs in Income-tax matters	Monetary Limit (Rs.)
1	Before Appellate Tribunal 50.00,000	50.00,000
2	2 Before High Court 1,00.00,000	1,00.00,000
3	Before Supreme Court 2,00.00,000	2,00.00,000

The aforesaid limits, as per para 13 of the Circular no. 3 of 2018 dated 11/07/2018, applies to pending appeals also. In view of the admitted position, we dismiss the revenue's appeal. 6. At the same time, a liberty is given to revenue to seek recall of the appeal, if at a later stage, it is found that the matter is covered by any exceptions provided in any of the circular or in case the tax effect as agitated by revenue exceeds the prescribed monetary limit.

4. Since the issue has duly been covered by above said decision, therefore, the appeal stands dismissed.

5. In the result, the appeal filed by the revenue is hereby dismissed.

Order pronounced in the open court on 28/10/2020

Sd/-

Sd/-

(RAJESH KUMAR)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 28/10/2020

Vijay Pal Sing/Sr. PS

(AMARJIT SINGH)

न्यायिक सदस्य/JUDICIAL MEMBER



ITA. No.4203/M/2017
A.Y. 2007-08

आदेश की 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**