

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT

**BEFORE SHRI PAWAN SINGH, HON'BLE JUDICIAL MEMBER &
DR. A. L. SAINI, HON'BLE ACCOUNTANT MEMBER**

आयकरअपीलसं./ITA No.1275/AHD/2015

(निर्धारणवर्ष / Assessment Year:2009-10)

Deputy Commissioner of Income Tax, Circle-2(3), Sruat.	Vs.	M/s. Maa Krupa Construction Company, 91, Maa Krupa Residency, Kharvasa Main Road, Dindoli, Surat.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAQFM5687H		
(Appellant)	..	(Respondent)

Appellant by : Shri Bipin Jariwala - AR
Respondent by : Shri B P K Panda – Sr. DR

सुनवाईकीतारीख/ Date of Hearing : 12/11/2020

घोषणाकीतारीख/Date of Pronouncement: 12/11/2020

आदेश / O R D E R

DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER:

The captioned appeal filed by the Revenue, pertaining to assessment year 2009-10, is directed against the order passed by the Ld. Commissioner of Income Tax (Appeal)-1, Surat [in short "CIT(A)"] in appeal no. CAS-I/244/2013-14, which in turn arises out of a penalty order passed by the Assessing Officer under section 271(1)(c) of the Income Tax Act, 1961 (in short the 'Act') dated 27.09.2013.

2. In this revenue's appeal in ITA No. 1275/AHD/2015 for AY.2009-10, we noticed that revenue has challenged the amount of penalty to the tune of Rs.37,38,000/- deleted by the ld. CIT(A).

3. Recently the CBDT has issued Circular No. 17/2019 dated 08.08.2019, whereby the monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal and High Courts and SLP before Supreme Court have been

increased as measure for reducing Litigation. The revised monetary limits laid down in para-2 of this Circular are as follows:

<i>1. Before Appellate Tribunal</i>	<i>Rs. 50,00,000/-</i>
<i>2. Before High Court</i>	<i>Rs.1,00,00,000/-</i>
<i>3. Before Supreme Court</i>	<i>Rs. 2,00,00,000/-</i>

4. In the present case, the tax effect by the revenue is less than Rs.50,00,000/-. Though this appeal had been filed by the revenue on 13/05/2015 and was within the monetary limit in the form of tax effect for filing appeals before Tribunal, in view of the recent Circular of CBDT, even such appeals will be governed by the new monetary limits laid down in the CBDT Circular No.17/2019 referred to above.

5. It is a settled law that the Circulars issued by CBDT are binding on the Revenue. This position was confirmed by the Apex Court in the case of Commissioner of Customs vs. Indian Oil Corporation Ltd. reported in 267 ITR 272 wherein their Lordships examined the earlier decisions of the Apex Court with regard to binding nature of the Circular and laid down that when a circular issued by the Board remains in operation then the Revenue is bound by it and cannot be allowed to plead that it is not valid or that it is contrary to the terms of the statute. The appeal under consideration has certainly been filed contrary to the Circular issued by the CBDT Circular No.17 dated 08.08.2019.

6. In the event, the Revenue finds at a later point of time that the tax effect in the appeal is more than Rs.50 lakhs or despite low tax effect the appeal of the revenue is maintainable, the revenue is at liberty to move this Tribunal for recalling of this order

7. In view of the above, we hold that the appeal filed by the Department, against the impugned order of the Ld. CIT(A), is contrary to the policy decision of

the Department and as such the appeal filed by the Department in ITA No. 1275/AHD/2015 is dismissed *in limine*.

8. In the result, the appeal of the Revenue (in ITA No.1275/AHD/2015 for AY. 2009-10) is dismissed.

Order pronounced in the Court on 12/11/2020

Sd/-
(PAWAN SINGH)
न्यायिकसदस्य / JUDICIAL MEMBER

Sd/-
(DR. A.L.SAINI)
लेखासदस्य / ACCOUNTANT MEMBER

दिनांक/ Date: 12/11/2020
(Samanta, PS)

Copy to:

1. Appellant
2. Respondent
3. CIT(A)
4. Pr. CIT
5. DR

// True Copy //

By order

Assistant Registrar, ITAT, Surat