

IN THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY (JUDICIAL MEMBER)  
AND  
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)

I.T.A. No.5079/Mum/2019  
(Assessment year 2015-16)

ITO,Wd.2(4), Kalyan	vs	M/s S.K. Ventures 1, Ground Floor, Block No.A-25/145 Madhuban Hotel Road, Ulhasnagar PAN : AADAS2607K
<b>APPELLANT</b>		<b>RESPONDENT</b>

Appellant by	Shri Sanjay J Sethi, DR
Respondent by	None

Date of hearing	22-02-2021
Date of pronouncement	05-03-2021

**ORDER**

**Per Saktijit Dey (JM)-**

This is an appeal by the revenue against order dated 24-05-2019 of learned Commissioner of Income-tax (Appeals)-3, Mumbai for the assessment year 2015-16.

2. When the appeal was called for hearing, no one was present on behalf of the assessee. However, considering the nature of dispute, we proceed to dispose of the appeal ex parte qua the assessee, after hearing the learned Departmental Representative and on the basis of materials on record.

3. The short issue in dispute in the present appeal is, whether the tax payable by the assessee can be computed under section 115JC of the Act?

4. We have heard the learned Departmental Representative and perused the materials on record. The learned Departmental Representative has very fairly submitted before us that learned Commissioner (Appeals) has decided the issue in favour of the assessee by following the decision of the Tribunal in assessee's own case for assessment year 2013-14. On a perusal of the impugned order of learned Commissioner (Appeals), we find that the Tribunal, in assessee's own case for Assessment Year 2013-14, vide ITA No.1248/Mum/2018 dated 05-03-2019 has held that since assessee's housing project has been approved prior to introduction of section 115JC of the Act, the provision would not apply. Thus, the issue is squarely covered in favour of the assessee by the aforesaid decision of the co-ordinate Bench. Therefore, we do not find any infirmity in the order of learned Commissioner (Appeals).

5. Having held so, we may also observe that as per column 10 of the memorandum of appeal in form No.36 filed by the revenue, the tax effect on the amount disputed by the revenue is shown as Rs.21,94,593/-. Thus, prima facie, this appeal of the revenue would be covered under Circular No. 17/2019 dated

8th August 2019, wherein, the monetary limit for filing appeal before the Tribunal has been enhanced to Rs.50 lakhs. Therefore, the present appeal of the revenue, otherwise, is also not maintainable. Accordingly, appeal is dismissed.

6. In the result, appeal is dismissed.

Order pronounced on 05/03/2021.

Sd/-

sd/-

<b>(N.K. PRADHAN)</b>	<b>(SAKTIJIT DEY)</b>
<b>ACCOUNTANT MEMBER</b>	<b>JUDICIAL MEMBER</b>

Mumbai, Dt : 05/03/2021

Pavanan

Copy to :

1. Appellant
2. Respondent
3. The CIT concerned
4. The CIT(A)
5. The DR, ITAT, Mumbai
6. Guard File

/True copy/

By Order

Asstt. Registrar, ITAT, Mumbai