

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B" MUMBAI**

**BEFORE SHRI M. BALAGANESH (ACCOUNTANT MEMBER) AND
SHRI RAVISH SOOD (JUDICIAL MEMBER)**

**ITA No.6016/MUM/2019
(Assessment Year: 2010-11)**

DCIT 9(2)(1),
Room No. 259A, 2nd Floor,
Aayakar Bhavan, Churchgate,
Mumbai – 400020

Vs. M/s Benchmark Computer
Solutions Pvt. Ltd.
Unit No.2, Second Floor,
Jyoti Wire House, Veera Desai
Road, Andheri (E),
Mumbai – 400 058

PAN No. AACCB3357N

Revenue

Assessee

Revenue by : Shri Tharian Oommen, Sr.D.R
Assessee by : None

Date of Hearing : 24/03/2021
Date of pronouncement : 24/03/2021

ORDER

PER RAVISH SOOD, JM:

The captioned appeal filed by the revenue is directed against the order passed by the Commissioner of Income Tax (Appeals)-16, Mumbai [for short 'CIT(A)'], dated 14.06.2019, which in turn arises from the penalty imposed by the A.O under section 271(1)(c) of the Income Tax Act 1961, (for short 'Act'), dated 13.02.2018.

2. Central Board of Direct Taxes (CBDT) vide Circular No. 17/2019 dated 08.08.2019 has amended Circular No. 3/2018 dated 11.07.2018 for further enhancement of monetary limit for filing of appeals by the Department before the ITAT, High Courts and SLPs/Appeals before Supreme Court as measures for reducing litigation.

3. CBDT vide Circular No. 3/2018 dated 11.07.2018 has specified that appeals shall not be filed before the Income Tax Appellate Tribunal (ITAT) in cases where the tax effect does not exceed the monetary limit of Rs.20,00,000/-. For this purpose, 'tax effect' means the difference between the tax on the total income assessed and the tax that would have been chargeable had such total income been

reduced by the amount of income in respect of issues against which appeal is intended to be filed. Further, 'tax effect' shall be taxes including applicable surcharge and cess. However, the tax will not include any interest thereon, except where chargeability of interest itself is in dispute. In case the chargeability of interest is the issue under dispute, the amount of interest shall be the 'tax effect'. In cases where returned loss is reduced or assessed as income, the 'tax effect' would include notional tax on disputed additions. In case of penalty order, the 'tax effect' will mean quantum of penalty deleted or reduced in the order to be appealed against.

At para 13 of the above Circular, it has been mentioned that:

"13. This Circular will apply to SLPs/appeals/cross objection/references to be filed henceforth in SC/HCs/Tribunal and it shall also apply retrospectively to pending SLPs/appeals/cross objections/references. Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed."

4. As a step towards further management of litigation, CBDT *vide* Circular No. 17/2019, dated 08.08.2019 has fixed the monetary limit for filing of appeals before ITAT at Rs.50,00,000/-.

5. In the instant appeal filed by the Department, the 'tax effect' therein involved is below the monetary limit of Rs.50,00,000/-. The said fact was brought to the notice of the Id. Departmental Representative (for short 'D.R') who did not controvert the same.

6. With the above observations the appeal involving a 'tax effect' of less than Rs.50,00,000/- is dismissed.

Order pronounced in the open court on 24.03.2021

Sd/-
(M. Balaganesh)
ACCOUNTANT MEMBER

Sd/-
(Ravish Sood)
JUDICIAL MEMBER

Mumbai;

Dated: 24.03.2021

Rohit, P.S.

Copy of the Order forwarded to :

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

BY ORDER,
//True Copy//

(Sr. Private Secretary)
ITAT, Mumbai