

**आयकर अपीलीय अधिकरण "B" न्यायपीठ मुंबई में।**

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस रिफौर रहमान, लेखा सदस्य के समक्ष ।

BEFORE SRI MAHAVIR SINGH, VP AND SRI S RIFAUR RAHMAN, AM

आयकर अपील सं./ ITA No. 5742/Mum/2019

(निर्धारण वर्ष / Assessment Years 2011-12)

The Asst. Commissioner of Income Tax, Circle- 27(1), Room No. 408, 4 <sup>th</sup> Floor, Tower No.6, Vashi Railway Station Complex, Vashi Navi Mumbai-400 703	बनाम/ Vs.	M/s Bhanu Construction Unit No.107, Hill view Industrial Estate, Off: LBS Marg, Amrut Nagar, Ghatkopar (W), Mumbai-400 086
(अपीलार्थी / Appellant)		(प्रत्यर्थी/ Respondent)
स्थायी लेखा सं./PAN No. AABFB8940R		

अपीलार्थी की ओर से/ Appellant by	:	Shri Tharian Oommen, DR
प्रत्यर्थी की ओर से/ Respondent by	:	Shri Devendra Jain, AR

सुनवाई की तारीख / Date of hearing:	26.04.2021
घोषणा की तारीख / Date of pronouncement:	26.04.2021

**आदेश / ORDER**

महावीर सिंह, उपाध्यक्ष के द्वारा /

**PER MAHAVIR SINGH, VP:**

This appeal of Revenue is arising out of the order of the Commissioner of Income Tax (Appeals)-25, Mumbai, [in short CIT(A)], in appeal No. CIT(A)-25/IT-20 & 21/2018-19 dated 10.06.2019. The assessment was framed by the Income Tax Officer (in short ITO/ AO),



Ward-22(1)(1), Mumbai for the A.Y. 2011-12 vide order dated 28.03.2014 under section 143(3) of the Income-tax Act, 1961 (hereinafter 'the Act'). The penalty under dispute was levied by Asst. Commissioner of Income Tax, Circle 27(1), Mumbai vide order dated 29.03.2018 under section 271(1)(c) of the Act.

2. At the outset, the learned Counsel for the assessee stated that the tax effect in this appeal is ₹4,44,000/-, which is below the tax effect as prescribed vide CBDT Circular No. 17/2019 vide F.No. 279/Misc.142/2007-ITJ(Pt.) dated 08.08.2019, wherein the monetary limit for filing of appeal before ITAT is enhanced to ₹50 lacs. We noted that vide this circular No. 17/2019 dated 08.08.2019 an amendment was made to CBDT Circular No. 3/2018 dated 11.07.2018 vide F.No. 279/Misc. 142/2007-ITJ (Pt) increasing the monetary limit for filing of appeal before Income Tax Appellate Tribunal i.e. ₹ 50 lacs in each of the case from the monetary limit of ₹20 lacs. Admittedly, in this case tax effect is below prescribed limit of ₹ 50 lacs for filing of appeal before the Tribunal.

3. When this was confronted to the learned Departmental Representative, he could not point out that this appeal falls under any of the exception as provided in Circular No. 3 of 2018, which are applicable to the present circular no. 17/2019. Admittedly, the tax effect in this appeal of Revenue is much below the prescribed limit of filing appeal before the Tribunal i.e. ₹ 50 lacs as per CBDT circular No. 17 of 2019. In view of the above, this appeal of Revenue is dismissed as withdrawn in



view of Circular No. 17 of 2019. This appeal of Revenue's appeal is dismissed as withdrawn.

**4. In the Result, the appeal of the Revenue is dismissed as withdrawn.**

Order pronounced in the open court on 26.04.2021

Sd/-

(एस रिफ़ौर रहमान/ S RIFAUR RAHMAN)

(लेखा सदस्य / ACCOUNTANT MEMBER)

Sd/-

(महावीर सिंह /MAHAVIR SINGH)

(उपाध्यक्ष / VICE PRESIDENT)

मुंबई, दिनांक/ Mumbai, Dated: 26.04.2021

सुदीप सरकार, व. निजी सचिव/ Sudip Sarkar, Sr.PS

**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 (Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai