

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

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.6217/M/2019
Assessment Year: 2005-06**

Income Tax Officer- 33(3)(3), Room No.751, 7 th Floor, Kautilya Bhavan, BKC, Bandra (E), Mumbai - 400051	Vs.	Sadashiv K. Shetty HUF, 18-A, Tower 'D' Viceroy Park, Thakur Village, Kandivali (E), Mumbai - 400 101 PAN: AAOHS8023B
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Anushree Bansal, A.R.
Revenue by : Shri Sanjay J. Sethi, D.R.

Date of Hearing : 23.08.2021
Date of Pronouncement : 13.09.2021

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the Revenue against the order dated 01.04.2019 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2005-06.

2. At the outset, it is brought to the notice of the Bench by the Ld A.R. that the CBDT recently has amended the CBDT Circular No. 3/2018 dated 11.07.2018 vide Circular No. 17/2019, F.No. 279/Misc.142/2007-ITJ(Pt.) dated 08.08.2019 increasing the limit for filing of appeal before Income Tax Appellate Tribunal i.e. ₹ 50 lacs in each of the case. We noted that earlier Circular No. 3 of 2018 was made applicable to pending appeals also and this clause of the circular remains unchanged even after the

amendment. Admittedly, in this case tax effect is below the prescribed limit for filing the appeal before the Tribunal by the Revenue i.e. ₹ 50 lacs.

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. 17 of 2019. Admittedly, the tax effect in this appeal of Revenue is much below the prescribed limit of ₹ 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 In view of the above, this appeal of Revenue is dismissed as withdrawn in view of Circular No. 17 of 2019.

4. Now, before us, the learned CIT Departmental Representative only requested that he wants to verify whether this appeal falls under any of the explanation provided in CBDT Circular No. 3/2018. Here, we are giving liberty to Revenue that in case, after passing of the order it comes to the notice of the Revenue that this appeal does not fall under any explanation of the CBDT by 3/18, the AO can move for recalling of the order within the prescribed time limit under section 254 of the Act. Hence, this appeal is dismissed as low tax effect covered by CBDT Circular No. 17/2019.

5. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 13.09.2021.

Sd/-
(Mahavir Singh)
VICE PRESIDENT

Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER

Mumbai, Dated: 13.09.2021.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.