

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

**BEFORE SHRI MAHAVIR SINGH (VICE PRESIDENT) AND
SHRI S. RIFAUR RAHMAN (ACCOUNTANT MEMBER)**

**ITA No. 3360/MUM/2012
Assessment Year: 2009-10**

The ACIT 15(3),
R.No. 122, Matru Mandir, 1st
floor, Tardeo,
Mumbai-400 007.

Appellant

Vs. M/s M.N. Finance Corporation,
7, Shree Padamshi Bhavan, 22,
Nath Madhav Lane, Khatter Galli,
C.P. Tank,
Mumbai-400 004.

PAN No. AAAPM 7459 H

Respondent

**CO. No. 111/MUM/2013
(ITA No. 3360/MUM/2012)
Assessment Year: 2009-10**

M/s M.N. Finance
Corporation,
7, Shree Padamshi Bhavan,
22, Nath Madhav Lane,
Khatter Galli, C.P. Tank,
Mumbai-400 004.

PAN No. AAAPM 7459 H

Appellant

Vs. The ACIT 15(3),
R.No. 122, Matru Mandir, 1st
floor, Tardeo,
Mumbai-400 007

Respondent

Revenue by : Mr. C.T. Mathews, DR
Assessee by : Mr. Mayank Chauhan, AR

Date of Hearing : 09/09/2021
Date of pronouncement : 14/09/2021

ORDER

PER S. RIFAUH RAHMAN, A.M.

The present appeal filed by the Revenue and cross objection filed by the assessee are against the order of Commissioner of Income Tax (Appeals)-26, Mumbai [in short 'CIT(A)'] for the assessment year 2009-10 dated 14.03.2012 and arises out of assessment completed u/s 143(3) of the Income Tax Act, 1961 (in short the Act).

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 Revenue 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 said 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 has fixed the monetary limit for filing of appeals before ITAT at Rs.50,00,000/-.”

4. Before us, the Ld. Departmental Representative (DR) fairly agrees that the tax effect herein is below the monetary limit of Rs.50,00,000/- fixed by the above Circular for filing of appeals before the ITAT. However, it is pleaded by him that in case of exceptions to the above Circular, the Revenue may be allowed to bring it to the notice of the Tribunal. Considering the submission, we make it clear that the Revenue shall be at liberty to point out the exceptions to which the above Circular may not apply by filing miscellaneous applications.

5. In view of the CBDT Circular No. 17/2019, this appeal involving tax effect of less than Rs.50,00,000/- is dismissed.

6. In the result, the appeal filed by the Revenue and Cross Objection filed by the assessee are dismissed.

Order pronounced in the open Court on 14/09/2021

Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Mumbai;
Dated: 14/09/2021
Rahul Sharma, Sr. 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.

//True Copy//

BY ORDER,

(Dy./Assistant Registrar)
ITAT, Mumbai