

**IN THE INCOME TAX APPELLATE TRIBUNAL
“E” BENCH, MUMBAI**

**BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER
& SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

ITA No.97/Mum/2018 (A.Y 2012-13)

The ITO 25(1)(5) C-10, 406, 4 th Floor, BKC Complex, Mumbai – 400051	Vs.	M/s Triumphant Properties LLP, 710, Meadows, Sahara Plaza, Andheri Kurla Road, Andheri (E), Mumbai - 400059
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No.: AAGFT0727R		
Respondent =	..	Appellant

Appellant by :	Shri Karan Kapadia & Ms. Pooja Shah
Respondent by :	Shri B.K. Bagchi

Date of Hearing	28.03.2022
Date of Pronouncement	28.03.2022

आदेश / O R D E R

PER AMARJIT SINGH, AM:

The present filed by the revenue is directed against the order passed by the CIT(A)-37, Mumbai, which in turn arises from the assessment order passed by the A.O u/s 143(3) of the Income Tax Act, 1961, dated 16.03.2015 for A.Y. 2012-13.

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 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 involved is below the monetary limit of Rs.50,00,000/-. The said fact as was brought to our notice by the Ld. Counsel for the assessee was confronted to the Ld. Departmental Representative (DR).

6. Before us, the Ld. DR submits that liberty may kindly be given to raise, after necessary further verification, and to seek recall the dismissal of appeal and restoration of the appeal in case it can be shown that the appeal is covered by the exceptions.

7. We agree with the above contentions of the Ld. DR and make it clear that the appellant shall be at liberty to point out the exceptions and we will take appropriate remedial measures in this regard.

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

Order pronounced in the open Court on 28.03.2022

Sd/-
(Pavan Kumar Gadale)
Judicial Member

Sd/-
(Amarjit Singh)
Accountant Member

Place: Mumbai

Date 28.03.2022

Rohit: PS

आदेश की प्रतिलिपि □ ग्रेषित/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 DR,
ITAT, Mumbai

6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ **ITAT, Bench,**
Mumbai.