

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, MUMBAI
BEFORE SHRI PRASHANT MAHARISHI, AM AND SHRI AMARJIT SINGH, JM

ITA No. 1871/Mum/2021

(Assessment Year 2017-18)

The Dy. Commissioner of Income-tax, Central Circle 2(4), Room No. 802, 8 th Floor, Old CGO Annexe, Bldg, MK Road, Mumbai-400 020	Vs.	M/s Nikunj EDM Wires & Consumables Pvt. Ltd. 92, 4 th Floor, Shri Jorawar Bhavan, Marine Lines, Mubmai-400 020
(Appellant)		(Respondent)
PAN No. AACCN7254N		

Assessee by	:	Shri Vijay Mehta, CA
Revenue by	:	Shri Dr. Mahesh Akhade, CIT DR

Date of hearing:	12.04.2022
Date of pronouncement :	12.04.2022

ORDER

PER PRASHANT MAHARISHI, AM:

01. This appeal is filed by the Dy. Commissioner of Income tax, Central Circle 2(4), Mumbai (the learned Assessing Officer) for AY 2017-18 against the order passed by the Pr. Commissioner of Income-tax-48, Mumbai dated 16.08.2021.

02. At the time of hearing of the appeal, the learned Authorized Representative submitted that only issue in this appeal is with respect to the addition of Rs.70,52,357/-, which was offered by the assessee as its sales in profit and loss account which was taxed at 33.063% whereas the learned Assessing Officer has made the addition under section 68 of the Act, which is chargeable to tax at the rate of 77.25% under section 115BBE of the Act. Therefore, tax effect on the disputed addition is only Rs.



31,16,225/- . Therefore, the learned Assessing Officer should not have filed appeal in view of CIRCULAR NO. 17/2019 [F.NO. 279/MISC.142/2007-ITJ(PT.)], DATED 8-8-2019.

03. The learned Departmental Representative submitted that this needs to be verified by the learned Assessing Officer.
04. We have carefully considered the rival contentions and perused the working given by the learned Authorized Representative showing that tax effect involved in this appeal is only Rs. 31,16,225/-, which is less than threshold in terms of CBDT press release dated 08.08.2019. It was not shown to us that it is covered by any of the exceptions covered in that circular. In view of this, the appeal filed by the learned Assessing Officer is dismissed as not maintainable.
05. In the result, the appeal of the learned Assessing Officer is dismissed.

Order pronounced in the open court on 12.04.2022.

Sd/-
(AMARJIT SINGH)
(JUDICIAL MEMBER)

Sd/-
(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 12.04.2022

Sudip Sarkar, Sr.PS

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/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai