

IN THE INCOME TAX APPELLATE TRIBUNAL

"G" BENCH, MUMBAI

BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER AND

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No.6689/Mum./2019

(Assessment Year : 2014-15)

Income Tax Officer (Exemp.)
Ward-1(3), Mumbai

..... Appellant

v/s

Global Vipassana Foundation
Room no.511, 5th Floor, Piramal Chambers
Lalbaug, Parel, Mumbai 400 012
PAN – AAATG1256C

.....Respondent

Assessee by : Shri Nitesh Joshi
Revenue by : Smt. Mahita Nair

Date of Hearing – 29/08/2022

Date of Order – 30/08/2022

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The present appeal has been filed by the Revenue challenging the impugned order dated 19/08/2019, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by learned Commissioner of Income Tax (Appeals)-3, Mumbai, [*"learned CIT(A)"*], for the assessment year 2014-15.

2. In its appeal, the Revenue has raised following grounds:

"1. Whether, on the facts and in circumstances of the case and in law, the Ld CIT(A) Mumbai has erred in allowing 15% accumulation u/s 11(1)(a) of the IT Act, inspite of the assessee trust having negative income, thereby increasing the deficit, which is contrary to the law.

2. Whether, on the facts and in circumstances of the case and in law, the LA CITIAL Mumbai has erred in not following the judgement of Hon'ble ITAT, Mumbai in the case of Dawat Institute of Dawoodi Bohra Community v/x ITO(E) ITA No 4309/Mum/2005 dated 30.04.2013, wherein it is held that when the assessee is having deficit the accumulation of 15% u/s 11(1)(a) of the LT Act cannot be allowed.

3. The appellant prays that the order of the Commissioner of Income Tax (Appeals)-1, Mumbai be set aside and that of the Assessing Officer be restored."

2. At the outset, the learned A.R., appearing for the assessee, by referring to column 10 of Form No. 36 filed by the Revenue submitted that the tax effect relating to the grounds of appeal raised by the Revenue is below the revised monetary limit of Rs.50 lakh, applicable to appeals before the Tribunal, as per CBDT Circular no.17 of 2019, dated 08/08/2019. Further, he submitted, none of the exceptions provided in CBDT Circular no.3 of 2018, dated 11/ 07/2018 r/w circular F. no.279/Misc./142/2007-ITJ-(Pt) dated 20/08/2018, would apply to Revenue's appeal. Thus, the learned A.R. submitted that Revenue's appeal being covered under the aforesaid Circulars is not maintainable.

3. The learned Departmental Representative could not produce any material before us to controvert the submission so made on behalf of the assessee.

4. Having considered the submissions and perused the material available on record, we are of the view that the tax effect relating to the grounds of appeal raised by the Revenue in the present appeal is below the revised monetary limit of Rs. 50 lakh as per CBDT Circular no.17/2019, dated

08/08/2019, r/w CBDT Circular no.3/2018, dated 11/07/2018, r/w Circular F. no.279/Misc./142/ 2007-ITJ-(Pt) dated 20/08/2018. In view of the aforesaid, Revenue's appeal deserves to be dismissed. However, the Revenue is given liberty to seek recall of this order if, at a later point of time, it is found that the appeal falls under any of the exceptions provided in the Circulars referred to above.

5. In the result, appeal by the Revenue appeal is dismissed.
Order pronounced in the open court on 30/08/2022

Sd/-
PRASHANT MAHARASHI
ACCOUNTANT MEMBER

Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER

MUMBAI, DATED: 30/08/2022

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Assistant Registrar
ITAT, Mumbai