

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

**BEFORE S/SHRI P.K. BANSAL, VICE PRESIDENT**

**AND RAVISH SOOD, JUDICIAL MEMBER**

आयकरअपीलसं/ I.T.A. No.3527/Mum/2015

(निर्धारणवर्ष / Assessment Year: 2010-11

Asstt. Commissioner of Income Tax Cir-2(2)(1) Mumbai	<b>बनाम/</b> Vs.	M/s IHP Finvest Ltd. Construction House, 2 <sup>nd</sup> floor, Walchand Hirachand Road, Ballard Estate Mumbai-400001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. :AAACI5206P		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थीओरसे/ <b>Appellant by:</b>	Ms. Vinita Menon, D.R.
प्रत्यर्थीकीओरसे/ <b>Respondentby:</b>	Mr. Prasad Bapat, A.R.

सुनवाईकीतारीख / Date of Hearing: 09.05.2017

घोषणाकीतारीख /Date of Pronouncement: 11.05.2017

**आदेश / ORDER**

**PER RAVISH SOOD, JM:**

This appeal has been filed by the Revenue against the order of Ld. CIT(A)-5, Mumbai dated 09.03.2015 relating to assessment year 2010-11, which in itself arises from the order passed by the Assessing Officer u/s 143(3) of the Income Tax Act, 1961 (for short “Act”) dated 20.03.2013.

2. At the very outset, we have noted that in this case the tax effect on the income under dispute is less than Rs.10 lac. We further noted that the Central Board of Direct Taxes vide Circular No. 21/2015 dated 10<sup>th</sup> December, 2015 file no.279 of Misc. 142/2007 - ITJ (PT) has issued the direction in supersession of the Instruction

No.5/2014, dated 10/07/2014 in pursuance of the power entrusted u/s. 268A of the 'Act', as per which no appeal shall be filed before this Tribunal in case tax effect does not exceed Rs.10 lac. The "tax effect" in this regard means the difference between the tax on the total income assessed and the tax that what 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. We further noted that under paragraph 10 which is reproduced as under, it has been mentioned in the circular that this instruction will apply even to the pending appeals.

*"10. This instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in High Courts/Tribunals. Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed. Appeals before the Supreme Court will be governed by the instructions on this subject, operative at the time when such appeal was filed."*

3. In the impugned case, we noted that the tax effect on the issue under dispute does not exceed Rs.10 lac. In view of this fact, as per the instruction, the Revenue is not supposed to press the appeal. We, therefore, dismiss the appeal filed by the Revenue in limine without going into the merits of the case as in our opinion the circulars issued by CBDT are binding on the departmental officers in view of the provisions of Section 268A(1) of the Act. The said view has been taken by Hon'ble Supreme Court in the case of Navneet Lal Zaveri Vs. AAC 56 1TR 198 (SC). We accordingly dismiss the appeal filed by the Revenue.

4. In the result, the appeal of the Revenue stands dismissed.

(Order pronounced in the open court on 11/05/2017)

Sd/-  
**(P.K. BANSAL)**  
**VICE PRESIDENT**

Sd/-  
**(RAVISH SOOD)**  
**JUDICIAL MEMBER**

मुंबई Mumbai; दिनांक Dated : 11<sup>th</sup> May, 2017

व.नि.स./*Rahul Sharma, Sr. PS*

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. आयकरआयुक्त(अपील)/ The CIT(A)-
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि,आयकरअपीलीयअधिकरण, मुंबई/ DR,  
ITAT, Mumbai
6. गार्डफाईल /Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापितप्रति //True Copy//

**उप/सहायकपंजीकार**  
(Dy./Asstt.Registrar)

**आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai**