

**IN THE INCOME TAX APPELLATE TRIBUNAL “E” BENCH, MUMBAI
BEFORE SRI MAHAVIR SINGH, JM AND ASHWANI TANEJA, AM**

**ITA No.1113/Mum/2013
(A.Y:2008-09)**

Asst. Commissioner of Income Tax 11(1), Room No. 439, Aayakar Bhavan, K.K. Marg, Mumbai-20	Vs.	Shri Sanjay Dutt Sunrise, 24 th Road, Bandra (W), Mumbai-400050 PAN No.AAJPD2027K
Appellant	..	Respondent
Revenue by	..	Shri. B.S. Bist, DR
Assessee by	..	Shri Stany Saldanha, AR
Date of hearing	..	30-11-2016
Date of pronouncement	..	30-11-2016

ORDER

PER MAHAVIR SINGH, JM:

This appeal by the assessee is arising out of the order of CIT (A)-3, Mumbai in appeal No. CIT(A)-3/Addl. CIT/11(1)/IT-359/10-11 dated 30-11-2012. The Assessment was framed by ACIT Range-11(1), Mumbai for the A.Y. 2008-09 vide order dated 31-12-2010 u/s 143(3) of the Income Tax Act, 1961 (hereinafter ‘the Act’).

2. At the outset, it is seen that the relief allowed by CIT(A) on account of deletion of addition of notional interest on interest free deposits amounting to Rs.6,30,00/- and addition made u/s 14A of the Act amounting to Rs.2,29,125/-, thereby the total addition is Rs.8,59,125/-. The net tax demand will be Rs.2,74,920/-. Hence, net tax effect in this appeal of revenue on the disputed additions made by AO and deleted by CIT (A), is less than Rs. 10 lacs.

3. During the course of hearing before us, the learned Counsel for the assessee, pointed out that in this case, the net tax demand is Rs.2,74,920/- and thus, the tax effect in this appeal is below Rs.10.00 lacs. The learned Counsel for the assessee further submitted that in view of the **CBDT Circular No.21/2015, dated 10.12.2015** brought out by the Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, the appeal was not maintainable and be dismissed. The learned Sr. DR also agreed to the facts stated by the learned Counsel for the

assessee but could not point out whether this case falls under any of the exception provided in the Circular.

4. We have heard the rival submissions and perused the material on record. We find from the records before us that the tax involved in the disputed issue is below Rs.10 lacs and therefore, in view of the circular No. 21/2015 dated 10th December, 2015 no appeal should be filed by the Revenue before the Tribunal which has tax effect of Rs. 10.00 lacs or less and this circular is also applicable retrospectively to all pending appeals. The relevant extract the said CBDT Circular (Supra) is as under:

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“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.”

5. Considering the above, the appeal filed by the Revenue, is therefore, dismissed.

6. **In the result, the appeal of the Revenue is dismissed.**

Order pronounced in the open court on 30-11-2016.

Sd/-
(ASHWANI TANEJA)
ACCOUNTANT MEMEBR

Sd/-
(MAHAVIR SINGH)
JUDICIAL MEMBER

Mumbai, Dated: 30-11-2016
Sudip Sarkar /Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT (A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

Assistant Registrar
ITAT, MUMBAI