

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH 'C', BANGALORE**

BEFORE SMT. ASHA VIJAYARAGHAVAN, JM (SMC)

**ITA No.305(B)/2014
(Assessment year : 2005-06)**

The Income-tax Officer,
Ward-1,
Kolar

Appellant

Vs

Shri M Veerabhadrappe,
Ettakodi, Kalkunte Post, Main Road,
Ettakodi Village, Malur Taluk-563 130

Respondent

**Revenue by : Shri Sunil Kumar Agarwal, JCIT
Assessee by : Shri R.Chandrashekar, Advocate**

**Date of hearing : 20-08-2015
Date of pronouncement : 26-08-2015**

ORDER

PER SMT ASHA VIJAYARAGHAVAN, JM:

This appeal by the revenue is directed against the order of CIT(A)-V, Bangalore dated 14-10-2013 for the assessment year 2005-06.

2. We have heard both sides and also perused the material on record.

3. At the outset, it is observed that the tax effect involved in this appeal of the revenue is less than the monetary limit of Rs.4.00 lakhs prescribed by the CBDT for filing the appeal before this Tribunal and the same therefore, is not maintainable. Although, the learned DR has not disputed the fact that the tax effect involved in this appeal of the revenue is less than Rs.4.00 lakhs, he has contended that the

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revised monetary limit of Rs.4.00 lakhs fixed by the CBDT vide Instruction No.5 of 2014 issued on 10th July, 2014 for filing of the departmental appeals before the Tribunal is applicable only to the appeals filed on or after 10th July, 2014. He has contended that since the present appeal was filed by the Department on 03-03-2014, the revised monetary limit of Rs.4.00 lakhs is not applicable to the same. The Co-ordinate Bench has considered similar contentions of the Revenue in the case of ITO Vs Sri Santhoshi Transport, Yellandu (Khammam District) in ITA No.615/Hyd/2013 for assessment year 2006-07, and decided the issue relating to the applicability of the CBDT Instruction No.5 of 2014 issued on 10th July, 2014 in respect of appeals filed prior to 10.7.2014, against the department vide para 2 of our order dated 23.2.2015, which reads as follows-

"2. We have heard the arguments of both the sides and also perused the relevant material on records. As submitted by the learned counsel for the assessee, at the outset, the tax effect involved in this appeal of the Revenue is less than the monetary limit of Rs.4 lakhs prescribed by the CBDT for filing the appeals before the Tribunal, and the same, therefore, is not maintainable. Although the Learned Departmental Representative has not disputed the fact that the tax effect involved in this appeal of the Revenue is less than

Rs.4.00 lakhs, he has contended that the revised monetary limit of Rs.4.00 lakhs fixed by the CBDT vide Instruction No.5 of 2014 issued on 10th July, 2014 for filing of the departmental appeals before the Tribunal is applicable only to the appeals filed on or after 10th July, 2014. He has contended that since the present appeal was filed by the Department on 4.7.2013, the revised monetary limit of Rs. 4.00 lakhs is not applicable to the same. In this regard, the learned counsel for the assessee has relied on the decision of the Kolkata Bench of the Tribunal in the case of ITO, Ward 3, Murshidabad Vs. Nabikchuddin Sk. rendered vide its order dated 12.8.2014 passed in ITA No.340/KoI/2012, wherein a similar argument raised on behalf of the Department was rejected by the Tribunal relying inter alia on the decision of the Hon'ble Gujarat High Court in the case of Sureshchandra Durga Prasad Khatod(HUF) (253 CTR 492)(Guj), wherein it was held, keeping in view the main objective of the Instruction issued by the CBDT to reduce the pending litigation where the tax effect is considerably low or small, that the same would apply to pending appeals also. Keeping in view the decision of the coordinate bench of the Tribunal in the case of Nabikchuddin Sk.(supra), we hold that the present appeal filed by the department involving a tax effect of less than the monetary

limit of Rs.4.00 lakhs fixed by the CBDT in its Instruction No.5 of 2014 dated 10th July, 2014 for filing of appeals by the Department before the Tribunal, is not maintainable. The same is accordingly dismissed."

4. Keeping in view the consistent view taken by the coordinate benches of this Tribunal, I hold that the present appeal filed by the department involving a tax effect of less than the monetary limit of Rs4.00 lakhs fixed by the CBDT in its Instruction No.5 of 2014 dated 10th July, 2014 for filing of appeals by the Department before the Tribunal, is not maintainable. The same is accordingly dismissed.

5. In the result, the appeal filed by the revenue is dismissed.

Order pronounced in the open Court on the 26th August, 2015.

Sd/-

**(ASHA VIJAYARAGHAVAN)
JUDICIAL MEMBER**

D a t e d : 26-08-2015

Place: Bangalore

am*

Copy to :

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- 5 DR, ITAT, Bangalore.
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By order
AR, ITAT, Bangalore

