

आयकर अपीलीय अधिकरण "I" न्यायपीठ मुंबई में।

**IN THE INCOME TAX APPELLATE TRIBUNAL "I" BENCH, MUMBAI
BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND
SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 1827/Mum/2016 & 1828/Mum/2016

(निर्धारण वर्ष / Assessment Year : 2006-07 and 2007-08)

Deputy Commissioner of Income Tax, Central Circle- 7(4), R.No. 659,6 th Floor, AayakarBhawan,M K Road, Mumbai-400020	बनाम/ v.	Ajay Gupta(HUF) 301-A, Mithila Apartment, J B Nagar, Andheri(E), Mumbai-400059
स्थायी लेखा सं./PAN : AAHHA0217J		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)

CO. No. 86/Mum/ 2016 and 87/Mum/2016 arising out of appeal's
आयकर अपील सं./I.T.A. No. 1827/Mum/2016 & 1828/Mum/2016

(निर्धारण वर्ष / Assessment Year : 2006-07 and 2007-08)

Ajay Gupta(HUF) 301-A, Mithila Apartment, J B Nagar, Andheri(E), Mumbai-400059	बनाम/ v.	Deputy Commissioner of Income Tax, Central Circle-7(4), R.No. 659,6 th Floor, AayakarBhawan,M K Road, Mumbai-400020
स्थायी लेखा सं./PAN : AAHHA0217J		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)

Revenue by	Sh Yeshwant V . Chavan, CIT DR
Assessee by :	Sh. R.C.Jain

सुनवाई की तारीख /**Date of Hearing** : 20-12-2016
घोषणा की तारीख /**Date of Pronouncement** : 20-12-2016

आदेश / ORDER

PER Bench :

These two appeal filed by the Revenue are disposed of because the tax effect in both these appeals is less than Rs. 10 lacs as per the latest CBDT Circular No. 21/2015, F. No. 279/Misc.142/2007-ITJ (Pt) dated 10th December, 2015 issued by Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India.

2. The ld. D.R. submitted that tax effect involved in these two appeals is less than Rs. 10 lacs and the CBDT Circular No. 21/2015 is applicable to these appeal and the appeal is not maintainable/not pressed in terms of CBDT circular no 21/2015 dated 10/12/2015. The ld. DR submitted that as per the latest CBDT Circular No. 21/2015, F. No. 279/Misc.142/2007-ITJ (Pt) dated 10th December, 2015 issued by Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, no appeal shall be filed by the Revenue in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3 of the circular

Para 3 of the Circular No. 21/2015

S No.	Appeals in Income tax matters	Monetary Limit (in Rs)
1	Before Appellate Tribunal	10,00,000/-
2	Before High Court	20,00,000/-
3	Before Supreme Court	25,00,000/-

In the said circular vide para 10, it is stipulated that 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 may be withdrawn/not pressed.

3. Keeping in view the CBDT Circular No. 21/2015 dated 10th December, 2015 which is applicable from retrospective effect and is also applicable to pending appeals and also in view of Id. DR stating before us that these two appeals are now not maintainable/not pressed in view of the above CBDT Circular, we hold that these two appeals filed by the Revenue which is covered by this order involving tax effect less than Rs. 10 lacs are not maintainable and are dismissed being not pressed. We have not commented on merits of the appeals. However, the Revenue is at liberty to file an application for recall of these appeal in accordance with law, if at any stage Revenue wants to agitate the matter in accordance with the provisions/clauses as contained in the afore-stated circular. We order accordingly.

4. The assessee has raised cross objections against both the Revenues' appeals. Since the Revenue appeals are dismissed due to low tax effect as detailed in preceding paras' of this order. The learned AR of the assessee conceded that these CO be also dismissed as not pressed. However, the learned counsel for the assessee would contend that that the assessee has raised an additional ground w.r.t. non-recording of satisfaction by the Revenue before invoking Section 153C of the Act against the assessee and the CO be dismissed without prejudice to this legal ground which goes to the root of the matter. The Id DR fairly agreed to the same as the assessee has raised this legal ground in other assessment years which are in appeal before the tribunal.

5. We have considered the rival contentions and perused the material on record. Since the appeals of the Revenue are already dismissed by us due to low tax effect being covered by afore-stated CBDT circular without going into the merits of the case. We are inclined to dismiss both the CO's filed by the assessee as 'not pressed' without commenting on merits as the learned

counsel for the assessee has conceded before us that the same has now become infructuous and are not pressed. However , while dismissing both these CO's we have not commented on the merits of issues'/ grounds raised by the assessee and legal issue regarding non-recording of satisfaction by the Revenue before invoking Section 153C of the Act is kept open. Similar liberty is given to the assessee to recall CO in case Revenue decides to recall its appeals as concession granted by us to Revenue in preceding para's of this order. We order accordingly.

6. In the result, the both the appeals filed by the Revenue are dismissed. Similarly , both the CO's filed by the assessee are dismissed.

Order pronounced in the open court on 20th December 2016.

आदेश की घोषणा खुले न्यायालय में दिनांक: 20-12-2016 को की गई ।

Sd/-

(SAKTIJIT DEY)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated 20-12-2016

sd/-

(RAMIT KOCHAR)
ACCOUNTANT MEMBER

I

आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)- concerned, Mumbai
4. आयकर आयुक्त / CIT- Concerned, Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai H Bench
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई/ ITAT, Mumbai