

IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH 'A', BANGALORE

BEFORE SHRI. ABRAHAM P. GEORGE, ACCOUNTANT MEMBER

AND

SHRI. VIJAYPAL RAO, JUDICIAL MEMBER

I.T.A No.824/Bang/2014
(Assessment Year : 2009-10)

Deputy Commissioner of Income tax,
Circle – 1, Tumkur .. Appellant

v.

Shri. R. Muralikrishna,
Prop : M/s. Super Home Appliances,
CSI Complex, B. H. Road, Tumkur .. Respondent
PAN : AQNPM4326J

Cross objection No.197/Bang/2015
(In I.T.A No.824/Bang/2014)
(Assessment Year : 2009-10)
(By the Assessee)

Assessee by : Shri. S. R. Kiron, CA
Revenue by : Dr. P. K. Srihari, Addl. CIT

Heard on : 06.01.2016
Pronounced on : 06.01.2016

ORDER

PER ABRAHAM P. GEORGE, ACCOUNTANT MEMBER :

These are appeal and cross objection filed by the Revenue and assessee respectively, against order dated 10.02.2014 of CIT (A)-II, Bangalore, for the A. Y. 2009-10.

02. When the appeal and CO were taken up for hearing, the Bench pointed out to the parties that tax effect involved in this appeal was less than Rs.10 lakhs for the impugned assessment year, therefore by virtue of Circular No.21/2015, dt.10.12.2015, is below the limit laid down for filing appeals before this Tribunal.

03. Ld. DR submitted that para 8 of the circular was not applicable in this case. Therefore he did not object to the application of the circular.

04. We have perused the orders and heard the contentions. Para 4 of the circular No.21/2015 (supra) is reproduced hereunder :

“4. For this purpose, “tax effect” means the difference between the tax on the total income assessed and the tax that would have been chargeable had such total income been reduced by the amount of income in respect of the issues against which appeal is intended to be filed (hereinafter referred to as “disputed issues”). However the tax will not include any interest thereon, except where chargeability of interest itself is in dispute. In case the chargeability of interest is the issue under dispute, the amount of interest shall be the tax effect. In cases where returned loss is reduced or assessed as income, the tax effect would include notional tax on disputed additions. In case of penalty orders, the tax effect will mean quantum of penalty deleted or reduced in the order to be appealed against.”

05. The tax effect on the issues that are disputed by the Revenue is less than Rs.10 lakhs for the impugned assessment year. Assessee had not challenged the constitutional validity of any provisions of the Act nor had it challenged the legality of the Circular. Revenue has not brought to our notice anything to show that the appeal arose on an issue emanating from any Revenue Audit Objections accepted by the Department. Addition giving rise to the appeal does not relate to any undisclosed foreign assets / bank accounts. Thus we find that circular No.21/ 2015 (supra) is squarely applicable in this case. However if Revenue find that appeal arise out of issues emanating from audit objection it will be free to file MP for recalling this order. If the appeal gets revived then needless to say the CO shall also be revived.

06. With the above observations appeal of the Revenue and cross objection by the assessee are dismissed.

Pronounced in the open court on this 6th day of January, 2016.

Sd/-
(VIJAYPAL RAO)
JUDICIAL MEMBER

Sd/-
(ABRAHAM P GEORGE)
ACCOUNTANT MEMBER

MCN

Copy to:

1. The assessee
2. The Assessing Officer
3. The Commissioner of Income-tax
4. Commissioner of Income-tax(A)
5. DR
6. GF, ITAT, Bangalore

By Order

Assistant Registrar

