

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

**BEFORE SHRI VIJAYPAL RAO, JUDICIAL MEMBER
AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

**ITA No.1347(Bang.)/2015
(Assessment year : 2003-04)**

The Income Tax Officer,
Ward-2(2)(1),
Bangalore
PAN No.AKRS0054K

Appellant

Vs

Smt. Kishori Uday Sheth,
25/3, Serpentine Road,
Kumara Park West,
Bangalore-560 020

Respondent

**Revenue by : Shri Sunil Kumar Agarwala, JCIT-III
Assessee by : Shri Prathik, CA**

**Date of hearing : 29-12-2015
Date of pronouncement : 29-12-2015**

ORDER

PER SHRI INTURI RAMA RAO, AM

This appeal is filed by the Revenue. At the outset, it is observed that the tax effect involved in this appeal is below Rs.10 lakhs. Vide Circular No.21/2015 dated 10th December, 2015, bearing F.No.279/- Misc.142/2007-ITI(Pt), the CBDT, functioning under the Ministry of Finance, with a view to reduce unnecessary litigation on their part, has issued a circular, wherein they have revised the monetary limits for filing of

appeals by the Department before the Income Tax Appellate Tribunal, High Courts and Supreme Court. Insofar as the Tribunal is concerned, the monetary limit specified is Rs.10 lakhs. CBDT specified that where the tax effect does not exceed the monetary limit specified therein, the concerned authority has to withdraw its appeal or it need not press the same. It is further specified that the tax effect indicated therein is applicable to all pending appeals, though they are filed by the Revenue prior to the issuance of the said circular. It was also clarified that the Assessing Officer has to calculate the tax effect separately for every assessment year in respect of the disputed issue(s) in the case of every assessee. If, in the case of an assessee, the disputed issue arises in more than one year(s), appeal(s) can be filed in respect of such assessment year(s) in which tax effect in respect of the disputed issue exceeds the monetary limit specified. In other words, if there are a number of years, if the tax effect is less than the specified limit in one year, appeal cannot be filed or the same has to be withdrawn for that year, for want of tax effect. However, an exception is made to this direction with regard to a combined order passed by the first appellate authority. That is, if in one of the years the tax effect is more than Rs.10 lakhs and the Revenue decides to file an appeal, in respect of other years covered by the said order also, Revenue is eligible to file appeal, even though the tax effect in each of those years is less than Rs.10 lakhs. It was also clarified that merely because the appeal is dismissed for want of tax effect, it does not come in the way of the Department in filing appeal for

other years(s), and it does not mean that the Department has acquiesced the issue.

2. The above circular was specifically made applicable to all pending appeals. In the present case, the addition in dispute, which was deleted by the CIT(A) by the impugned order, is only Rs.4,51,913/- under the head capital gains. The tax thereon works out to Rs.90,382/-. Thus, the tax effect involved in this appeal is less than Rs.10 lakhs.

3. The legislature in its wisdom has introduced S.268A of the Income Tax Act, 1961, whereby the Board is empowered to issue orders/instructions/directions to the income-tax authorities, fixing the monetary limits for the purpose of regulating the filing of appeals. In the light of the circular dated 10.12.2015, issued by the CBDT in exercise of the powers conferred in it by subsection (1) of S.268A, we are of the view that the appeal filed herein should not have been pressed by the Revenue. The Learned Departmental Representative fairly admitted that the Revenue effect in this appeal is less than the prescribed limit in para-3 of the above circular issued by the CBDT. Having regard to the circumstances of the case, we dismiss the appeal of the Revenue as withdrawn/not pressed, as pronounced in the open court.

4. The revenue is at liberty to move appropriate application/petition in case it is found that the case is covered by one of the exception(s) carved out in the said Circular.

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

Order pronounced in the open court on the 29th December, 2015.

Sd/-
(VIJAYPAL RAO)
JUDICIAL MEMBER
Place: Bangalore
D a t e d : 29-12-2015
am*

SD/-
(INTURI RAMARAO)
ACCOUNTANT MEMBER

Copy to :

- 1 Appellant
- 2 Respondent
- 3 CIT(A)-II Bangalore
- 4 CIT
- 5 DR, ITAT, Bangalore.
- 6 Guard file

By order, AR,ITAT, Bangalore