



ITA No.5964/M/2014
Shree Swami Samartha Developers
Assessment Year : 2010-11

आयकर अपीलीय अधिकरण “ई” न्यायपीठ मुंबई में।

**IN THE INCOME TAX APPELLATE TRIBUNAL
“E” BENCH, MUMBAI**

श्री शक्तिजीत दे, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।

**BEFORE SHRI SAKTIJIT DEY, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं. /I.T.A. No.5964/Mum/2014
(निर्धारण वर्ष / Assessment Year: 2010-11)

Assistant Commissioner of Income Central Circle-7 Room No. 805 8 th Floor Old CGO Annexe M.K.Road Mumbai 400 020	बनाम/ Vs.	Shree Swami Samartha Developers 19B Suyash Dadar (W) Mumbai- 400 028
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AABFS-7754-E		
(□ पीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Raturaj Gujar, Ld AR
Revenue by	:	Shri Vishwas Mundhe, Ld. DR

सुनवाई की तारीख / Date of Hearing	:	25/04/2017
घोषणा की तारीख / Date of Pronouncement	:	25/04/2017



आदेश / ORDER

Per Manoj Kumar Aggarwal (Accountant Member)

1. The captioned appeal by Revenue for Assessment Year [AY] 2010-11 assails the order of Ld. Commissioner of Income Tax (Appeals)-36, [CIT(A)], Mumbai dated 30/07/2014 *qua* certain relief provided to the assessee.
2. Briefly stated, the assessee, being resident firm, was subjected to an assessment u/s 143(3) vide Assessing Officer [AO] order dated 22/03/2013 wherein the total income of the assessee was determined at Rs.5,20,40,580/- after certain adjustments/disallowances as against returned income of Rs.4,60,39,780/- filed by the assessee on 27/09/2010. The assessee was engaged in the business of *construction and letting out of properties*. The assessee earned certain rental income from an entity namely *Reliance Webstore Private Limited* for Rs.44,22,372/-, which was treated as '*Income from other sources*'. Further, the assessee suffered another addition of Rs.12,30,323/- paid towards certain *society maintenance charges* as the same, in the opinion of the Ld. AO, were claimed twice by the assessee. Aggrieved, the assessee carried the matter before Ld. CIT(A) successfully vide order dated 30/07/2014 who deleted both the additions after considering the factual matrix of the case and various submissions made by the assessee. Further, Ld. CIT(A) directed the AO to refer the matter of valuation of certain capital asset to the valuation officer. Aggrieved by the relief provided by Ld. CIT(A), the revenue is in appeal before us.
3. At the outset, it has been brought to our notice that the appeal, being revenue's appeal, is covered by the Low Tax Effect circular issued by the CBDT. As per calculations, it is seen that the tax effect of amount in dispute in the appeal is below Rs.10 Lacs and hence the same is covered by latest CBDT Circular number 21 of 2015 dated 10/12/2015. As per this circular, new guidelines of monetary limit for filing of appeals by the Department has been issued, whereby the tax effect for filing of appeal before the ITAT has been prescribed at minimum of Rs. 10 lakhs. In the said Circular, it



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has been specifically clarified that the said instruction will apply retrospectively to all the pending appeals. The Ld. DR fairly conceded the position and could not point out any exceptions as given in the circular. Accordingly, the appeal filed by the revenue is not maintainable and therefore, dismissed *in limine*.

4. In Nutshell, the appeal of the revenue stands dismissed.

Order pronounced in the open court on 25th April, 2017.

Sd/-

(Saktijit Dey)

न्यायिक सदस्य / **Judicial Member**

मुंबई Mumbai; दिनांक Dated : 25.04.2017

Sr.PS:- Thirumalesh

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

आदेश की प्रतिलिपि □ ग्रेषित / Copy of the Order forwarded to :

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

आदेशानुसार / BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai