

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "B", MUMBAI

Before Shri P K Bansal, VP & Shri Pawan Singh, JM

ITA No. 201/Mum/2011
Assessment Year : 2006-07

Asst. CIT Central Circle 17 & 28 Mumbai	Vs.	Nandlal Tolani Charitable Trust 10-A, Bakhtawar, Nariman Point, Mumbai 400 021
(Appellant)		PAN : AAATN0043Q (Respondent)

Appellant By : Shri V K Agarwal
Respondent By : Shri Rajiv Khandelwal &
Shri Neelkanth Khandelwal

Date of Hearing : 30.05.2017

Date of Pronouncement : 31.05.2017

ORDER

Per P K Bansal, Vice-President:

This appeal has been filed by the Revenue against the order of CIT(A)-39, Mumbai, dated 29.10.2010, relating to assessment year 2005-06.

2. At the very outset, we noted that in this case the tax effect on the income under dispute is less than Rs.10 lac. We further noted that the Central Board of Direct Taxes vide Circular No. 21/2015 dated 10th December, 2015 file no.279 of Misc. 142/2007 – ITJ (PT) has issued the direction in supersession of the Instruction No.5/2014 dated 10/07/2014 in pursuance with the power entrusted u/s. 268A of the Income Tax Act, that no appeal should be filed before this Tribunal in case tax effect does not exceed Rs.10

lac. The "tax effect" in this regard means the difference between the tax on the total income assessed and the tax that what have been chargeable had such total income been reduced by the amount of income in respect of issues against which appeal is intended to be filed. This circular further states that tax will not include any interest thereon the chargeability of interest itself is in dispute. We further noted that under paragraph 10 which is reproduced as under, it has been mentioned in the circular that this instruction will apply even to the pending appeals.

"10. 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 Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed. Appeals before the Supreme Court will be governed by the instructions on this subject, operative at the time when such appeal was filed."

3. In the impugned case, we noted that the tax effect on the issue under dispute does not exceed Rs.10 lac. In view of this fact as per the instruction, the Revenue is not supposed to press the appeal. We, therefore, dismiss the appeal filed by the Revenue in limine without going into the merits of the case as in our opinion the circulars issued by CBDT are binding on the departmental officers in view of the provisions of Section 268A(1) of the Act. The said view has been taken by Hon'ble Supreme Court in the case of Navneet Lal Zaveri Vs. AAC 56 ITR 198 (SC). We accordingly dismiss the appeal filed by the Revenue.

4. In the result, the appeal of the Revenue stands dismissed.

Order pronounced in the open court on 31st day of May, 2017.

Sd/-

(Pawan Singh)

JUDICIAL MEMBER

Mumbai; Dated: 31st May, 2017

SA

Sd/-

(P K Bansal)

VICE-PRESIDENT

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Mumbai
4. The CIT
5. DR, 'B' Bench, ITAT, Mumbai

BY ORDER,

#True Copy #

Assistant Registrar
Income Tax Appellate Tribunal, Mumbai