

आयकर अपीलिय अधिकरण "सी" न्यायपीठ मुंबई में
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C", MUMBAI

श्री विकास अवस्थी, न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

ITA NO. 7436/MUM/2018 : **A.Y : 2011-12**

Income Tax Officer – 33(2)(5),
Mumbai. (Appellant) Vs. Smt. Parul Hemant Patel
502, Panchsheel Heights CHSL,
Mahavir Nagar, Kandivali (W),
Mumbai 400 067.
PAN : AAFPP9357C (Respondent)

CO NO. 271/MUM/2019 : **A.Y : 2011-12**
(in ITA NO. 7436/MUM/2018)

Smt. Parul Hemant Patel
502, Panchsheel Heights CHSL,
Mahavir Nagar, Kandivali (W),
Mumbai 400 067.
PAN : AAFPP9357C
(Cross-objector/Org. Respondent) Vs. Income Tax Officer – 33(2)(5),
Mumbai.
(Respondent/Org. Appellant)

Assessee by : **Shri Rajesh Kothari**
Revenue by : **Shri Uodal Raj Singh**
Date of Hearing : **14/10/2020**
Date of Pronouncement : **14/10/2020**

ORDER

PER SHRI VIKAS AWASTHY, JM :

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-45, Mumbai (in short 'the CIT(A)') dated 07.09.2018 for the Assessment Year 2011-12.

2. Shri Rajesh Kothari appearing on behalf of the assessee pointed at the outset that the tax effect in the appeal is approximately Rs. 48 lacs, hence, the present appeal of the Revenue is liable to be dismissed on account of low tax effect in view of CBDT Circular No. 17/2019 dated 08.08.2019.

3. Shri Uodal Raj Singh representing the Department fairly admitted that the tax effect in the present appeal is less than the monetary limit prescribed by the Board for filing of appeals by the Department before the Tribunal.

4. Both sides heard. It is an undisputed fact that the tax effect in the appeal is less than the monetary limit prescribed by the Board for filing of appeals before the Tribunal by the Department. The CBDT vide circular dated 08.08.2019 (*supra*) has amended Para 3 of Circular No. 3 of 2018 dated 11.07.2018 thereby enhancing monetary limit of tax effect from Rs.20 lacs to Rs.50 lacs for filing of appeals by the Department before the Tribunal. Thus, without going into merits of the issue raised in the appeal, the present appeal by the Revenue is dismissed on account of low tax effect.

5. Before parting, we clarify here that the Revenue shall be at liberty to approach the Tribunal for restoration of appeal, with the requisite material to show that the appeal is protected by the exceptions prescribed in Para 10 of the Circular dated 11.07.2018 and its amendment dated 20.08.2018.

6. In the result, appeal of the Revenue is dismissed.

Cross-objection No. 271/Mum/2019 :

7. The assessee has filed cross-objection. The learned Authorised Representative of the assessee stated that since the appeal of the Revenue is

dismissed, he is not pressing the cross-objection. In view of the statement made by learned Authorised Representative of the assessee, the cross-objection is dismissed.

8. In the result, appeal of the Revenue and cross-objection of the assessee both are dismissed.

Order pronounced in the open court on Wednesday, the 14th day of October, 2020.

Sd/-
(RAJESH KUMAR)
ACCOUNTANT MEMBER

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Mumbai, Date : 14th October, 2020

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Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "C" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai