आयकर अपीलीय अधिकरण पुणे न्यायपीठ "SMC" पुणे में
IN THE INCOME TAX APPELLATE TRIBUNAL
SMC BENCH, PUNE

श्री डी. करुणाकरा राव, लेखा सदस्य के समक्ष
BEFORE SHRI D. KARUNAKARA RAO, AM

आयकर अपील सं. / ITA No.2044/PUN/2017
निर्धारण वर्ष / Assessment Year : 2014-15

ITO, Ward-6(3),
Pune .... अपीलार्थी/Appellant

Vs.

M/s. Sukhanraj Shobhachand
Sakhariya,
401, Raviwar Peth,
Sonya Maruti Chowk,
Laxmi Road, Pune – 411 002
PAN : AAPFS9500G .... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Shri Rajesh Gawali
प्रत्यर्थी की ओर से / Respondent by : Shri Bharat Shah

सुनवाई की तारीख / **Date of Hearing : 03.10.2018**		घोषणा की तारीख / **Date of Pronouncement: 03.10.2018**

<u>आदेश / ORDER</u>

<u>PER D. KARUNAKARA RAO, AM :</u>

This is the appeal filed by Revenue against the order of CIT(A)-4, Pune dated 17-04-2017 for the Assessment Year 2014-15.

2. Grounds raised by the Revenue are extracted below :

"1. On the facts and in the circumstances of the case and in law, the Learned Commissioner of Income-tax (Appeals) has erred in accepting the sharp fall in Gross Profit by 10% and Net Profit by 12% keeping aside the position in earlier year, i.e. 2013-14.

2. For this and such other reasons as may be urged at the time of hearing, the order of the CIT(A) may be vacated and that of the Assessing Officer be restored.

3. The appellant craves leave to add, amend, alter or delete any of the above grounds of appeal during the course of appellate proceedings before the Hon'ble Tribunal."

3. Briefly stated relevant facts includes that the assessee is a firm engaged in Gold Jewellery, Silver and Diamond trading. There was survey action u/s.133A of the Act. Survey resulted in declaration of gold jewellery worth Rs.1 crore. In the assessment, the AO noticed discrepancies in stock. At the end of assessment, the AO made addition of Rs.40,56,829 on account of Gross profit on estimation basis. Contents of Para No.4 of the assessment order are relevant.

4. In the First Appellate proceedings, the CIT(A) deleted the addition made by the AO. Contents of Para No.5.3.2 are relevant. Aggrieved with the order of CIT(A), the Revenue filed the present appeal before the Tribunal.

5. At the outset, Ld. AR for the assessee submitted that the appeal filed by the Department is liable to be dismissed on account of low tax effect. The Ld. AR pointed that as per CBDT Circular No.3/2018 dated 11th July, 2018, the monetary limit for filing of appeal by the Department before the Tribunal is Rs.20 Lakhs, therefore, the appeal filed by the Department is not maintainable.

6. On the other hand, the Ld. DR for the Revenue defended the assessment order and prayed for reversing the findings of the CIT(A). However, the Ld. DR fairly admitted that the tax effect in the present appeal is less than Rs.20 Lakhs.

7. Both sides are heard. On going through the facts of the case and the orders of the Revenue, I find the total tax effect involved in the present appeal works out to below 20 lakhs. The CBDT circular No.3/2018 dated 11th July, 2018 raised the monetary limit of tax effect for filing of appeal by the Department before the Tribunal to Rs.20

Lakhs. The circular applies to the pending appeals of the Department before the Tribunal too. Thus, in view of the CBDT circular, I am of the opinion that the present appeal of the Revenue is liable to be dismissed on account of low tax effect without going into the merits of the case.

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

Order pronounced on this 03rd day of October, 2018.

Sd/-
(D.KARUNAKARA RAO)
लेखा सदस्य / ACCOUNTANT MEMBER

पुणे / Pune; दिनांक Dated : 03rd October, 2018.
Satish

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT(A)-4, Pune
4. आयकर आयुक्त / The Pr.CIT-3, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "**SMC**" / DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune