IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI

BEFORE SHRI R.C. SHARMA, AM
AND SHRI MAHAVIR SINGH, JM

ITA Nos. 494 & 495/Mum/2013
(Assessment Years: 2003-04 & 2004-05)

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| Income Tax Officer-8(1)(2)<br>Room No. 205, 2nd Floor<br>Aayakar Bhavan, M.K. Road<br>Mumbai 400020 | Appellant |

Vs.

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| M/s. Biecrete Projects Pvt. Ltd.<br>10, Ghulam Hussain Mansion<br>Bhadrawadi Lane, S.V. Road<br>Mumbai 400058 | Respondent |

PAN - AABCB1531H

Appellant by: Dr. Sandeep Goel
Respondent by: Shri Ajay R. Singh

Date of Hearing : 23.03.2016
Date of Pronouncement : 23.03.2016

O R D E R

PER BENCH:

These two appeals by the Revenue are directed against different orders of CIT(A)-16, Mumbai of common dated 09.10.2012 in appeal Nos. CIT(A)-16/ITO-8(1)(2)/IT-2 & 48/2012-13. Assessments were framed by ITO Ward-8(1)(2), Mumbai, for assessment years 2003-04 & 2004-05 vide his orders dated 24.03.2006 & 26.12.2006 u/s 143(3) & 144 of the Income Tax Act 1961(herein after referred to as ‘the Act’). Penalties under dispute were levied by ITO Ward-8(1)(2), Mumbai, u/s 271(1)(c) of the Act vide his orders dated 28.03.2012 & 17.02.2012 for both the assessment years.

2. At the outset, it is noticed that in both assessment years the quantum of penalty levied by AO u/s. 271(1)(c) of the Act is amounting to Rs.7,21,010/- in AY 2003-04 and amounting to Rs.4,79,128/- in AY 2004-05. We find that the quantum of penalty disputed before us is below the tax effect limit prescribed by CBDT vide Circular No. 21 / 2015 dated 10.12.2015 for preferring appeals before tribunal by the revenue. On perusal of the Circular No. 21 / 2015 dated 10.12.2015 and the materials available on record, Ld. DR could not point out whether these cases fall under any of the exception as provided in the circular despite specific opportunity was given. In view of this, these appeals do not fall under any of the exceptions contemplated in the said Circular, and hence, this is covered by this circular. We also find that the Circular makes it very clear that the revised monetary limits shall apply retrospectively to pending appeals also. We find that the Circular is binding on the tax authorities. This position has been confirmed by the *Hon'ble Apex Court in the case of Commissioner of Customs vs Indian Oil Corporation Ltd reported in 267 ITR 272 (SC).* Hence, we hold that both the appeals of the revenue deserve to be dismissed in terms of low tax effect vide Circular No.21 / 2015 dated 10.12.2015. Accordingly, these being low tax effect cases, we dismiss both these appeals of revenue in limine, as unadmitted, without going into the merits of the case.

3. In the result, appeals filed by the Revenue are dismissed.

Order pronounced in the open court on 23rd March, 2016.

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| Sd/- | Sd/- |
| (R.C. SHARMA) | (MAHAVIR SINGH) |
| ACCOUNTANT MEMBER | JUDICIAL MEMBER |

Mumbai, Dated 23rd March, 2016

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT(A) -16, Mumbai
3. CIT-8, Mumbai
4. DR, “B” Bench ITAT, Mumbai
5. Guard file.

By Order

(Asstt. Registrar)
ITAT, Mumbai

n.p.