आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ "ए" मुंबई

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, MUMBAI

BEFORE S/SHRI B.R.BASKARAN, AM AND AMARJIT SINGH, JM

आयकर अपील सं./I.T.A. No.7314/Mum/2013

(निर्धारण वर्ष / Assessment Year:2009-10)

Asstt. Commissioner of Income Tax 16(1), 2nd floor, Matru Mandir, Tardeo Road, Mumbai-400007	बनाम/ Vs.	Shri Ashok D Gulati, 2nd Trade House, Kamla Mills, Senapati Bapat Road, Lower Parel, Mumbai-400013
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

स्थायी लेखा सं./जीआइआर सं./PAN. :ACAPG8995L

आयकर अपील सं./I.T.A. No.4501/Mum/2014

(निर्धारण वर्ष / Assessment Year:2005-06)

Income Tax Officer, Ward 3(1), Kalyan, 2nd floor, Rani Mansion, Murbad Road, Kalyan (W)-421301	बनाम/ Vs.	Smt.Krishna Ramesh Khandelwal, Poonam R N 50, MIDC, Residential Zone, Opp Venkatesh Patrol Pump, Shil road, Dombivali(E).
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

स्थायी लेखा सं./जीआइआर सं./PAN. :AAMPK4736B

आयकर अपील सं./I.T.A. No.4499/Mum/2014

(निर्धारण वर्ष / Assessment Year:2007-08)

Income Tax Officer, TDS-1(1), Room No.804, K G Mittal Hospital Bldg, Charni Road, Mumbai-400002	बनाम/ Vs.	M/s Alliance Media and Entertainment Pvt Ltd., B-1306, Ankur Relief Road, Goregaon (West), Mumbai-400062
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

स्थायी लेखा सं./जीआइआर सं./PAN. :AAFCA3199A

आयकर अपील सं./I.T.A. No.5782/Mum/2011
(निर्धारण वर्ष / Assessment Year:2006-07)

Income Tax Officer 5(1)(1), Room No.570, Aayakar Bhavan, M K Road, Mumbai-400020	**बनाम**/ Vs.	Mrs.Lata Acharya, Ram Krishna Chambers, Office No.502/503, Opp. Ghanasingh Jewellers Linking road, Khar (W), Mumbai-400052
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

आयकर अपील सं./I.T.A. No.5779/Mum/2011
(निर्धारण वर्ष / Assessment Year:2008-09)

Income Tax Officer 5(1)(1), Room No.570, Aayakar Bhavan, M K Road, Mumbai-400020	**बनाम**/ Vs.	Mrs.Lata Acharya, Ram Krishna Chambers, Office No.502/503, Opp. Ghanasingh Jewellers Linking road, Khar (W), Mumbai-400052
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

स्थायी लेखा सं./जीआइआर सं./PAN. :ADFPA6464Q

आयकर अपील सं./I.T.A. No.218/Mum/2014
(निर्धारण वर्ष / Assessment Year:2008-09)

Income Tax Officer (International Taxation), 2(1),Room No.14, Ground Floor, Schinia House, Ballard Estate, Mumbai-400038	**बनाम**/ Vs.	Shri Amarjeet Baryan Singh, 93, 9th floor, Kalpataru Harmony, Sion-Killa Road, Near Telephone Exchange, Sion(E), Mumbai-400022
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Cross-Objection No.187/M/2015

Arising out of I.T.A. No.218/Mum/2014

(निर्धारण वर्ष / Assessment Year:2008-09)

Shri Amarjeet Baryan Singh, 93, 9th floor, Kalpataru Harmony, Sion-Killa Road, Near Telephone Exchange, Sion(E), Mumbai-400022	बनाम/ Vs.	Income Tax Officer (International Taxation), 2(1),Room No.14, Ground Floor, Schinia House, Ballard Estate, Mumbai-400038
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

स्थायी लेखा सं./जीआइआर सं./PAN. :AEXPS4468K

अपीलार्थी ओर से / Revenue by	Shri Manoj Kumar
प्रत्यर्थी की ओर से/Assessee by	ITA No.7314/M/2013 –Shri Nishit Gandhi ITA No.4501/M/2014-Shri Rahul R Sarda ITA No.4499/M/2014-Shri N Jayendra ITAs No.5782/M/2011-Shri K.T..Lakshminarayanan 5779/M/2011-. –do- ITA No.218/M/2014- -Shri Bhupendra Shah CO No.187/M/2015 - -do-

सुनवाई की तारीख / Date of Hearing : 5.1.2016

घोषणा की तारीख /Date of Pronouncement: 5.1.2016

आदेश / O R D E R

Per Bench:

All these appeals filed at the instance of the Revenue are directed against the separate orders passed by learned CIT(A) in their respective hands.

2. At the time of hearing, it was noticed that the tax effect involved in all these appeals on the disputed issues is less than Rs.10.00 lacs. For the sake of convenience, we tabulate below the relevant details:-

S.No.	Name of assessee	Amount in dispute(for quantum appeal) in Rs.	Amount of penalty
1	Shri Ashok D Gulati,		u/s 271(1)(c) Rs.7,86,411
2	Smt.Krishna Ramesh Khandelwal		u/s 271D Rs.5,00,000
3	M/s Alliance Media and Entertainment Pvt Ltd.,		U/s 201 & 201(1A) Rs.4,82,795/-
4	Mrs.Lata Acharya, AY 2006-07	Rs.20,45,974/-	
5	Mrs.Lata Acharya, AY 2008-09	Rs.19,04,002/-	
6	Shri Amarjeet Baryan Singh, (ITA 218/M/2014)	Rs.22,00,000/-	
7	Shri Amarjeet Baryan Singh, (Cross objection by assessee)		

3. We notice that the revenue is contesting the decision of Ld CIT(A) in granting relief to the extent stated above and hence the tax effect involved on the above said disputed amounts works out to less than Rs.10 lakhs in each of the cases referred above. Recently the CBDT has issued a circular No.21/2015 dated 10.12.2015 prescribing new monetary limits for preferring appeals against the orders passed by Ld CIT(A) before the Tribunal. The relevant portion of the circular cited above reads as under:

"F No 279/Misc. 142/2007-ITJ (Pt)
Government of India
Ministry of Finance
Department of Revenue
Central Board Direct Taxes

Circular No. 21/2015

New Delhi the 10th December, 2015

Sub :Revision of monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal and High Courts and SLP before Supreme Court - measures for reducing litigation – Reg

Reference is invited to Board's instruction No 5/2014 dated 10.07.2014 wherein monetary limits and other conditions for filing departmental appeals (in Income-tax matters) before Appellate Tribunal and High Courts and SLP before the Supreme Court were specified.

2. In supersession of the above instruction, it has been decided by the Board that departmental appeals may be filed on merits before Appellate Tribunal and High Courts and SLP before the Supreme Court keeping in view the monetary limits and conditions specified below.

3. Henceforth, appeals/ SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:

S No	Appeals in Income-tax matters	Monetary Limit (in Rs)
1	Before Appellate Tribunal	10,00,000/-
2	Before High Court	20,00,000/-
3	Before Supreme Court	25,00,000/-

It is clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case.

4. For this purpose, "tax effect" means the difference between the tax on the total income assessed and the tax that would have been chargeable had such total income been reduced by the amount of income in respect of the issues against which appeal is intended to be filed (hereinafter referred to as "disputed issues"). However the tax will not include any interest thereon, except where chargeability of interest itself is in dispute. In case the chargeability of interest is the issue under dispute, the amount of interest shall be the tax effect. In cases where returned loss is reduced or assessed as income, the tax effect would include notional tax on disputed additions. **In case of penalty orders, the tax effect will mean quantum of penalty deleted or reduced in the order to be appealed against.**

5. ……….

6………

7. ……

8. …….

9. …..

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."

11. ….."

It can be noticed that the CBDT has further clarified that this new circular/instruction shall apply retrospectively, i.e., even to the pending appeals. It is also stated that the quantum of penalty deleted or reduced shall be considered for determining the monetary limits.

4. It is well settled proposition that the circulars issued by the CBDT are binding on the Income Tax Authorities. For this proposition, one may gainfully refer to the decisions rendered by the Hon'ble Supreme Court in the case of Azadi Bachao Andolan (2003)(177 Taxation 775) and Pradip J Mehta Vs. CIT (2008)(300 ITR 231). Hence, the latest circular issued by the CBDT (referred supra) is binding on the income tax authorities. Accordingly, we find merit in the submissions of Ld A.R that this appeal of the revenue is not maintainable, since tax effect involved in this appeal is less than Rs.10 lakhs. Accordingly, we dismiss the appeal filed by the revenue.

5. In the case of Shri Amarjeet Baryan Singh, the assessee has also filed cross objection. Since the appeal of the revenue is dismissed, the CO is also dismissed.

5. In the result, all the appeals of the revenue are dismissed and the CO filed by Shri Amarjeet Baryan Singh is also dismissed.

Pronounced accordingly on 5th January, 2016.

घोषणा खुले न्यायालय में दिनांकः 5th January, 2016 को की गई ।

Sd sd

(AMARJIT SINGH)
JUDICIAL MEMBER

(B.R. BASKARAN)
ACCOUNTANT MEMBER

मुंबई Mumbai: 5th January, 2016.

व.नि.स./ SRL , Sr. PS

<u>आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to</u> :

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

आदेशानुसार/ BY ORDER,

True copy

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई /ITAT, Mumbai