आयकर अपीलीय अधिकरण "H" न्यायपीठ मुंबई में।

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।

BEFORE SRI MAHAVIR SINGH, VP AND SRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No. 7012/Mum/2019

(निर्धारण वर्ष / Assessment Years 2009-10)

आयकर अपील सं./ ITA No. 7013/Mum/2019

(निर्धारण वर्ष / Assessment Years 2008-09)

The Income Tax Officer Ward-22(1)(5), 323, 3rd Floor, Piramal Chambers Lal Baug, Parel, Mumbai-400 012	बनाम/ Vs.	Harish C Shah Flat No.6, Kanta Terrace, Tagore Road, Santacruz (West), Mumbai-400 054
(अपीलार्थी / Appellant)		(प्रत्यर्थी/ Respondent)
स्थायी लेखा सं./PAN No. AAPPS1648K		

अपीलार्थी की ओर से/ Appellant by	:	Shri Gurvinder Singh, DR
प्रत्यर्थी की ओर से/ Respondent by	:	None

सुनवाई की तारीख / Date of hearing:	21.04.2021
घोषणा की तारीख / Date of pronouncement:	21.04.2021

आदेश / O R D E R

महावीर सिंह, उपाध्यक्ष के द्वारा /

PER MAHAVIR SINGH, VP:

These appeals of assessee are arising out of the orders of the Commissioner of Income Tax (Appeals)]-34, Mumbai, [in short CIT(A)], in appeal Nos. CIT(A)-34/ITO-22(1)(5)/IT-227/16-17 & CIT(A)-34/ITO-22(1)(5)/IT-504/15-16 dated 13.08.2019. The assessments were framed by the Income Tax Officer (in short DCIT/ITO/ AO), Ward 22(1)(5), Mumbai for the A.Ys. 208-09 & 2009-10 vide order dated 11.03.2015 & 30.11.2015 under section 143(3) of the Income-tax Act, 1961 (hereinafter 'the Act'). The penalties under dispute were levied by Income Tax officer, Ward 22(1)(5), Mumbai vide order dated 27.05.2016 & 29.09.2015 for AY 2008-09 and 2009-10 respectively under section 271(1)(c) of the Act.

2. At the outset, the learned Counsel for the assessee stated that the tax effects in these appeals are ₹37,103 & ₹1,36,628/- for AYs 2008-09 & 2009-10 respectively, which is below the tax effect as prescribed vide CBDT Circular No. 17/2019 vide F.No. 279/Misc.142/2007-ITJ(Pt.) dated 08.08.2019, wherein the monetary limit for filing of appeal before ITAT is enhanced to ₹50 lacs. We noted that vide this circular No. 17/2019 dated 08.08.2019 an amendment was made to CBDT Circular No. 3/2018 dated 11.07.2018 vide F.No. 279/Misc. 142/2007-ITJ (Pt) increasing the monetary limit for filing of appeal before Income Tax Appellate Tribunal i.e. ₹ 50 lacs in each of the case from the monetary limit of ₹20 lacs. We noted that earlier Circular No. 3 of 2018 was made applicable to pending appeals also and this clause of the circular remains unchanged even after the amendment. Admittedly, in this case tax effect is below prescribed limit of ₹ 50 lacs for filing of appeal before the Tribunal.

3. When this was confronted to the learned Departmental Representative, he could not point out that this appeal falls under any of the exception as provided in Circular No. 3 of 2018, which are applicable to the present circular no. 17/2019. Admittedly, the tax effect in this appeal of Revenue is much below the prescribed limit of filing appeal before the Tribunal i.e. ₹ 50 lacs as per CBDT circular No. 17 of 2019. In view of the above, this appeal of Revenue is dismissed as withdrawn in view of Circular No. 17 of 2019. This appeal of Revenue's appeal is dismissed as withdrawn.

4. **In the Result, the appeals of the Revenue are dismissed as withdrawn.**

Order pronounced in the open court on 21.04.2021

Sd/-	Sd/-
(मनोज कुमार अग्रवाल / MANOJ KUMAR AGGARWAL)	(महावीर सिंह /MAHAVIR SINGH)
(लेखा सदस्य / ACCOUNTANT MEMBER)	(उपाध्यक्ष / VICE PRESIDENT)

मुंबई, दिनांक/ Mumbai, Dated: 21.04.2021

सुदीप सरकार, व. निजी सचिव/ *Sudip Sarkar, Sr.PS*

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

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति **//True Copy//**

उप/सहायक पंजीकार (Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई **/ ITAT, Mumbai**