IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 344 OF 2012
WITH
INCOME TAX APPEAL NO. 345 OF 2012
WITH
INCOME TAX APPEAL NO. 563 OF 2012

The Commissioner of Income Tax-19 .. Appellant
Mumbai
v/s.

Marigold Mezzanine Investment Fund ..Respondent

Mr. Abhay Ahuja for the appellant
None for the respondent

CORAM : M.S. SANKLECHA &
S.C. GUPTE, J.J.
DATED : 8th SEPTEMBER, 2016.

P.C.

1. These Appeals relate to Assessment Years 2002-03, 2001-02 and 2006-07 respectively. All the appeals have been filed by the Revenue from a common impugned order 9th September, 2011 disposing of these appeals for the Assessment Years 2001-02, 2002-03 and 2006-07.

2. Mr. Ahuja, learned Counsel appearing for the Revenue invited our attention to Circular No.21 of 2015 issued by the Central Board for Direct Tax dated 10th December, 2015. In particular, our attention invited to paragraphs 3, 5 and 10 therein which read as under:-

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

Sr. 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."

5. The Assessing Officer shall calculate the tax effect separately for every assessment year in respect of the disputed issues in the case of every assessee. If, in the case of an assessee, the disputed issues arise in more than one assessment year, appeal, can be filed in respect of such assessment year or years in which the tax effect in respect of the disputed issues exceeds the monetary limit specified in para 3. No appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. In other words, henceforth, appeals can be filed only with reference to the tax effect in the relevant assessment year. However, in case of a composite order of any High Court or appellate authority, which involves more than one assessment year and common issues in more than one assessment year, appeal shall be filed in respect of all such assessment years even if the 'tax effect' is less than the prescribed monetary limits in any of the year(s), if it is decided to file appeal in respect of the year(s) in which 'tax effect' exceeds the monetary limit prescribed. In case where a composite order / judgment involves more than one assessee, each assessee shall be dealt with separately."

"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."

3. In the present appeals, the tax effect as mentioned in paragraph 10 of the each of the three Appeal Memos is as under :-

Appeal No.	Assessment Year	Amount (Tax effect)
344 of 2012	2002-03	Rs.7.11 lakhs
345 of 2012	2001-02	Rs.2.41 lakhs
563 of 2012	2006-07	Rs. 0.32 lakh

4. Consequently, these appeal are not hit by clause 5 of the Central Board of Direct Taxes' Circular No.21/2015 dated 10th December, 2015. As none of the three appeals have a tax effect of Rs.20 lakhs or more, Mr. Ahuja, learned Counsel appearing for the Revenue seeks liberty to withdraw these appeals.

5. Accordingly, all three **Appeals are dismissed** as withdrawn**.**

6. Refund of Court Fees, as per Rules.

(S.C. GUPTE, J.) **(M.S. SANKLECHA, J.)**