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

INCOME TAX APPEAL NO. 2338 OF 2010
AND
INCOME TAX APPEAL NO. 2339 OF 2010

The Commissioner of Income Tax-12 .. Appellant

v/s.

M/s. Kala Darshan .. Respondent

Mr. P.C. Chhotaray for the appellant
Mr. B.G. Yewale i/b B.V. Jhaveri for the respondent

CORAM : M.S. SANKLECHA &
A.K. MENON, J.J.

DATED : 6th APRIL, 2016.

P.C.

1. Both the Appeals relate to Assessment Years 2000-01 and 2001-02. The appeals have been filed by the Revenue from a common impugned order 28th August, 2009 disposing of three appeals for the Assessment Years 2000-01, 2001-02 and 2004-05.

2. Mr. Chhotaray, 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. ………… 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 Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed.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 cases, the tax effect as mentioned in paragraph 11 of the each of the two Appeal Memos is as under :-

Appeal No.	Assessment Year	Amount (Tax effect)
2338 of 2010	2001-02	Rs.4.88 lakhs
2339 of 2010	2000-01	Rs.5.45 lakhs

4. Mr. Chhotaray, learned Counsel for the Revenue, on instructions, states that no appeal from the impugned order of the Tribunal for Assessment Year 2004-05 has been filed by the Revenue to this Court under Section 260A of the Income Tax Act, 1961. In the above view, these appeals are not hit by clause 5 of the Central Board of Direct Taxes' Circular No.21/2015 dated 10th December, 2015.

5. As none of the appeals have a tax effect of Rs.20 lakhs or more, Mr. Chhotaray, learned Counsel appearing for the Revenue seeks liberty to withdraw these appeals.

5. Accordingly, both the **Appeals are dismissed** as withdrawn**.**

6. Refund of Court Fees, as per Rules.

(A.K. MENON, J.) **(M.S. SANKLECHA, J.)**