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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.1029 OF 2014
WITH
INCOME TAX APPEAL NO.986 OF 2014

The Commissioner of Income Tax-II ..Appellant
Versus
Mahesh Surajmal Agarwal ..Respondent

....

Mr. Vipul Bajpayee for the Appellant.

....

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

DATE : 16th NOVEMBER, 2016

P.C.:

1. Income Tax Appeal No.986 of 2014 is not on board. Mentioned. Upon mentioning taken up for consideration along with Income Tax Appeal No.1029 of 2014 which is listed on board.

2. These two appeals relate to A.Ys. 2004-05 and 2005-06.

3. Both these appeals arise from a common impugned order dated 23rd November, 2012 passed by the Income Tax Appellate Tribunal (ITAT).

4. Mr. Vipul Bajpayee, 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 Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed.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.”

5. The tax effect involved in both these appeals is less than the

threshold limit of Rs.20 lakhs as provided in the CBDT Circular no.21 of 2015 dated 10th December, 2015. Thus, consequently, both appeals are not hit by para 5 of the above Circular. In the present cases, the tax effect as mentioned in paragraph 12 of the each of the two Appeal Memos is as under :-

Appeal No.	Assessment Year	Amount (Tax effect)
1029 of 2014	2004-05	1.73 lakhs
986 of 2014	2005-06	10.58 lakhs

6. In the above view, on instructions, Mr. Bajpayee does not press any of the two appeals.

7. Accordingly, both the **Appeals are dismissed,** as not pressed.

8. Refund of Court Fees, as per Rules.

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

Wadhwa