

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

INCOME TAX APPEAL NO. 634 OF 2012
WITH
INCOME TAX APPEAL NO. 635 OF 2012
WITH
INCOME TAX APPEAL NO. 681 OF 2012

The Commissioner of Income Tax-TDS .. Appellant

v/s.

M/s. Kotak Securities Ltd. .. Respondent

Mr. Suresh Kumar a/w Ms. Samiksha Kanani for the appellant
Mr. Atul Jasani for the respondent

**CORAM : M.S. SANKLECHA &
S.C. GUPTE, J.J.**

DATED : 20th SEPTEMBER, 2016.

P.C.

1. These Appeals relate to Assessment Years 2006-07, 2007-08 and 2005-06 respectively. All the appeals have been filed by the Revenue from a common impugned order 3rd February, 2012 disposing of these appeals for the Assessment Years 2005-06, 2006-07 and 2007-08.

2. Mr. Suresh Kumar, 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 cases, 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)
634 of 2012	2006-07	16.37 lakhs
635 of 2012	2007-08	12.43 lakhs
681 of 2012	2005-06	10.05 lakhs

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. Suresh Kumar, 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.)