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

INCOME TAX APPEAL NO. 2678 OF 2010
AND
INCOME TAX APPEAL NO. 1086 OF 2008
AND
INCOME TAX APPEAL NO. 1089 OF 2008

The Commissioner of Income Tax-13 Mumbai .. Appellant

v/s.

M/s. Mac Transport Company, Mumbai .. Respondent

Mr. P.C. Chhotaray for the appellant
Mr. Sameer Dalal for the respondent

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

DATED : 6th APRIL, 2016.

P.C.

1. These Appeals relate to Assessment Years 1992-93, 1994-95 and 1996-97. All the appeals have been filed by the Revenue from a common impugned order 23rd December, 2004 disposing of four appeals for the Assessment Years 1992-93, 1993-94, 1994-95 and 1996-97.

2. Mr. Chhotaray, learned Counsel for the Revenue, on instructions, states that the appeal for the Assessment Year 1993-94 has been dismissed for non-removal of office objections and as the tax effect was also less than Rs.20 lakhs, no steps were taken by the Revenue to have the same restored.

3. 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."*

4. 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)
2678 of 2010	1994-95	Rs.4.54 lakhs
1086 of 2008	1996-97	Rs.3.56 lakhs
1089 of 2008	1992-93	Rs.2.35 lakhs

5. In the above view, these appeals are not hit by clause 5 of the Central Board of Direct Taxes' Circular No.21/2015 dated 10^{th} December, 2015.

6. 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.

7. Accordingly, the **Appeals are dismissed** as withdrawn**.**

8. Refund of Court Fees, as per Rules.

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