

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

INCOME TAX APPEAL NO. 121 OF 2009

The Commissioner of Income Tax .. Appellant

v/s.

Kokani Bharat Dairy Farm ..Respondent

Mr. Suresh Kumar for the appellant

**CORAM : M.S. SANKLECHA &
B.P. COLABAWALLA, J.J.
DATED : 29th JANUARY, 2016.**

PC.

1. This Appeal relates to Assessment Year 2000-01.
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 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:-*

S. 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.”

“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 Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed.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 case, the tax effect is Rs. 18.11 lakhs as mentioned in paragraph 10 of the Appeal Memo.
4. Mr. Suresh Kumar, learned Counsel for the Revenue further states that the impugned order is a common order dealing with 7 other Assessment Years. In none of the other 7 Assessment Years, the tax effect is in excess of Rs.20 lakhs. Consequently, this appeal is not hit by clause 5 of the Central Board of Direct Taxes' Circular No.21/2015 dated 10th December, 2015.
5. In view of the above, Mr. Suresh Kumar, learned Counsel appearing for the Revenue seeks liberty to withdraw the appeal.
6. Accordingly, Appeal is dismissed as withdrawn.
7. Refund of Court Fees, as per Rules.

(B.P. COLABAWALLA, J.)

(M.S. SANKLECHA, J.)