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

INCOME TAX APPEAL NO. 165 OF 2013

Commissioner of Income Tax-6 .. Appellant

v/s.

KPMG India Pvt. Ltd. .. Respondent

Ms. S.V. Bharucha for the appellant
Mr. Atul Jasani for the respondent

CORAM : M.S. SANKLECHA &
M.S. SONAK, J.J.
DATED : 9th DECEMBER, 2016.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 8th June, 2012 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2001-02. Besides disposing of the appeal for the Assessment Year 2001-02, the impugned order also disposes of the appeals of the respondent assessee in respect of Assessment Years 2002-03 and 2003-04.

2. Ms. Bharucha, learned Counsel appearing for the Revenue states that the Revenue has not preferred any appeals in respect of Assessment Years 2002-03 and 2003-04.

2. Ms. Bharucha, 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."*
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> ***"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 as mentioned in paragraph 10 of the Appeal Memo is as under :-

Appeal No.	Assessment Year	Amount (Tax effect)
165 of 2013	2001-02	Rs.19.36 lakhs

Consequently, the appeal is not hit by clause 5 of the Central Board of Direct Taxes' Circular No.21/2015 dated 10th December, 2015. Thus, Ms. Bharucha, the learned Counsel appearing for the Revenue, on instructions, seeks to withdraw this appeal.

4. Accordingly, the **Appeal is dismissed** as withdrawn. Refund of Court Fees, as per Rules.

(M.S. SONAK, J.) **(M.S. SANKLECHA, J.)**