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

INCOME TAX APPEAL NO. 130 OF 2011
WITH
INCOME TAX APPEAL NO. 131 OF 2011
WITH
INCOME TAX APPEAL NO. 132 OF 2011
WITH
INCOME TAX APPEAL NO. 179 OF 2011
WITH
INCOME TAX APPEAL NO. 183 OF 2011

The Commissioner of Income Tax-17
Mumbai .. Appellant
v/s.

Boon Industries .. Respondent

Mr. A.R. Malhotra a/w Mr. N.A. Kazi for the appellant
Mr. Sanjiv M. Shah for the respondent

CORAM : M.S. SANKLECHA &
A.K. MENON, J.J.
DATED : 27th JULY, 2016.

P.C.

1. These Appeals relate to Assessment Years 2000-01, 2001-02, 2002-03, 2003-04 and 2004-05. All the appeals have been filed by the Revenue from a common impugned order 8th July, 2015 disposing of five appeals for the Assessment Years 2000-01 to 2004-05.

2. Mr. Malhotra, 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 11 of the each of the five Appeal Memos is as under :-

Appeal No.	Assessment Year	Amount (Tax effect)
130 of 2011	2002-03	Rs.11.18 lakhs
131 of 2011	2001-02	Rs.7.36 lakhs
132 of 2011	2000-01	Rs.8.35 lakhs
179 of 2011	2004-05	Rs.6.89 lakhs
183 of 2011	2003-04	R11.18 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 five appeals have a tax effect of Rs.20,00,000/- or more, Mr. Malhotra, learned Counsel appearing for the Revenue seeks liberty to withdraw these appeals.

5. Accordingly, all five **Appeals are dismissed** as withdrawn**.**

6. Refund of Court Fees, as per Rules.

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