IN THE HIGH COURT OF BOMBAY AT GOA

TAX APPEAL NO.103 OF 2017.

The Principal Commissioner of
Income Tax, Panaji. ….. Appellant.

Versus

Herald Publications Pvt. Ltd. ..... Respondent.

Ms. S. Linhares, Standing Counsel for the Appellant.
Mr. D. E. Robinson, Advocate for the Respondent.

Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.

Date : 2 May 2018.

P.C. :

On 11 April 2018 we had passed following order:-

“The learned counsel for the Respondent has placed before us a Circular issued by the C.B.D.T. dated 29 February 2016. According to the learned counsel for the Respondent, there is no warrant to prefer an appeal since the order passed by the Tribunal is based on a decision of the Allahabad High Court in the case of Jagran Prakashan Ltd. v Deputy CIT (TDS)[1] which has been confirmed by the Apex Court and pursuant to which a Circular has been issued by

> *the C.B.D.T. The appeal has been sworn by the Assistant Commissioner of Income Tax wherein the memo of appeal does not refer to the effect of the Circular which is binding.*
>
> *2. The Appellant to explain as to whether the C.B.D.T. Circular produced on record by the learned counsel for the Respondent is applicable to the facts of the case and if so in what circumstances the appeal is filed, more particularly in view the policy adopted by the Government to minimize the litigation. Affidavit to be filed before the next date. Stand over to 2 May 2018."*

2. The learned Standing Counsel tenders an affidavit filed by the Assistant Commissioner of Income Tax tendering apology for not examining the circular which was applicable to the facts of the present case and filing the appeal which was not warranted to be filed. While we accept the apology so tendered, the Assistant Commissioner should be careful in examining the legal position before filing appeals in discriminate manner like this, since entails expenditure at the cost of public ex-chequer.

3. Appeal is dismissed as withdrawn.

Prithviraj K. Chavan, J. ***N.M. Jamdar, J.***