IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL NO.220 OF 2012
WITH
INCOME TAX APPEAL NO.1251 OF 2011

Commissioner of Income Tax-8, Mumbai … Appellant
Vs.
M/s. ETC Network Limited … Respondent

Mr. Arvind Pinto a/w. Mr. Suresh Kumar for Appellant.
Mr. Sanjiv M. Shah for Respondent.

CORAM : UJJAL BHUYAN,
MILIND N. JADHAV, JJ.

DATE : MARCH 04, 2020

P.C. :

Heard Mr. Arvind Pinto and Mr. Suresh Kumar, learned standing counsel Revenue for the appellant and Mr. Sanjiv Shah, learned counsel for the respondent - assessee.

2. While Income Tax Appeal No.220 of 2012 arises out of order of the Income Tax Appellate Tribunal dated 22.07.2011 passed in I.T.A.No.4764/Mum/2010 for the assessment year 2004-05, Income Tax Appeal No.1251 of 2011 arises out of the order of the Income Tax Appellate Tribunal dated 06.08.2010 passed in I.T.A.No.138/Mum/2009 for the assessment year 2004-05.

3. On the last occasion i.e. on 11.02.2020, this Court directed learned standing counsel to obtain instructions from the departmental authority as to whether Revenue would pursue the appeal or not in terms of Circular No.17 of 2019 of Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes dated 08.08.2019 since admittedly the tax effect in both the appeals are below the prescribed limit in terms of the aforesaid Circular.

4. Today when the matter is called upon, learned standing counsel Revenue submit that they have not received any instructions in that regard despite communicating with the departmental authorities.

5. Be that as it may, it is seen that in Income Tax Appeal No.220 of 2012, the disputed tax claim is Rs.30,75,953.00 whereas in Income Tax Appeal No.1251 of 2011, it is Rs.32,64,412.00, both below the prescribed limit of Rs.1 crore.

6. In view of the CBDT Circular No.17 of 2019, both the appeals would stand dismissed on withdrawal subject to the condition that if the Revenue finds that the appeals fall within any of the exceptions under the said Circular, it would be open to the Revenue to seek revival of the appeals.

7. Court fee to be refunded as per rules.

(MILIND N. JADHAV, J.) **(UJJAL BHUYAN, J.)**

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