

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'सी', अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“ C ” BENCH, AHMEDABAD

सर्वश्री एस.एस.गोदारा, न्यायिक सदस्य एवं प्रदीप कुमार केडिया, लेखा सदस्य के समक्ष ।
BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER &
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No.3086/Ahd/2014
(निर्धारण वर्ष / Assessment Year : 2011-12)

The DCIT Circle-4(1)(1) Ahmedabad	बनाम/ Vs.	M/s.Shree Ambica Polymers Pvt.Ltd. A/3, 1 st Floor, Safal Profitaire Nr.AUDA Garden Pralhadnagar Ahmedabad-380 015
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AABCC 1409 R		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/ Appellant by :	Mr.Satish Karnani, Sr.DR
प्रत्यर्थी की ओर से/ Respondent by :	Mr.Divyakant Parikh, AR

सुनवाई की तारीख / Date of Hearing	18/05/2017
घोषणा की तारीख/ Date of Pronouncement	19/ 05/2017

आदेश / O R D E R

PER PRADIP KUMAR KEDIA, AM:

The captioned appeal by the Revenue is directed against the order of the Commissioner of Income Tax(Appeals)-XIV, Ahmedabad [CIT(A) in short] dated 05/08/2014 for the Assessment Year (AY) 2011-12.

2. The assessee in the instant case has inter alia claimed deduction under s.10B of the Income Tax Act, 1961 (hereinafter referred to as "the Act") in respect of foreign exchange fluctuation gain of Rs.57,27,538/- arising from export transactions. The Assessing Officer (AO) in the course of scrutiny assessment observed that the said foreign exchange fluctuation gain cannot be said to be in the nature of profits and gains 'derived from export' of articles or things or computer software. He accordingly denied benefit of deduction under s.10B in respect of forex fluctuation gain.

3. Aggrieved, the assessee filed appeal before the CIT(A). The CIT(A) found that the assessee is right in law and on facts in claiming deduction under s.10B of the Act towards foreign exchange fluctuation gain from eligible unit. For arriving at this conclusion, the CIT(A) relied upon the judgement of the Hon'ble Gujarat High Court in the case of Priyanka Gems (2014) 267 CTR 480 (Guj.) among others.

4. Aggrieved, the Revenue is in appeal before the Tribunal.

5. The short question for determination is whether an assessee is eligible to claim deduction under s.10B towards foreign exchange fluctuation gain received on export bills or not. We find that the issue is

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no longer *res integra*. The issue is squarely covered in favour of the assessee by series of judgements, some of which are noted hereunder:-

- (i) CIT vs. Amba Impex (2006) 282 ITR 144 (Guj.)
- (ii) Priyanka Gems (2014) 267 CTR 480 (Guj.)
- (iii) Pr.CIT vs. Sun Pharmaceutical Industries Ltd. (2016) 240 Taxman 686 (Guj.)
- (iv) ITO vs. Banyan Chemicals (P.) Ltd. (2009) 117 ITD 376 (Ahd.)[TM].
- (v) ACIT vs. M/s.Chand Engineering in ITA No.168 (Asr)/2010 – AY 2006-07, order dated 10/06/2011.
- (vi) Renaissance Jewellery (P.) Ltd. vs. ITO (2006) 101 ITD 380 (Mum.).

6. The issue being fairly settled in favour of the assessee by long line of precedents, we are unable to see any infirmity to the order of CIT(A).

7. In the result, appeal of the Revenue is dismissed.

This Order pronounced in Open Court on	19/ 05/2017
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Sd/-
(एस.एस.गोदारा)
न्यायिक सदस्य
(S.S. GODARA)
JUDICIAL MEMBER

Ahmedabad; Dated 19/ 05 /2017
टी.सी.नायर, व.नि.स./T.C. NAIR, Sr. PS

Sd/-
(प्रदीप कुमार केडिया)
लेखा सदस्य
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-XIV, Ahmedabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad