

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "D" BENCH, AHMEDABAD**

**[Coram: Pramod Kumar AM and S S Godara JM]**

ITA No.1439/Ahd/2015 & CO No.99/Ahd/2015  
Assessment Year: 2011-12

**The ACIT** .....**Appellant**  
(OSD) Range-1,  
Ahmedabad

**Vs.**

**Ahmedabad Steel Craft Ltd** .....**Respondent &  
Cross-Objector**  
401, 4<sup>th</sup> Floor, 637 Complex  
Panchwati 2<sup>nd</sup> Lane, Gulbai Tekra,  
Ellisbridge, Ahmedabad-380006  
[PAN : AACCA 3036 B]

**Appearances by:**

**VK Singh** for the appellant

**Karan Shah** for the respondent

Date of concluding the hearing : 25.09.2017

Date of pronouncing the order : 25.09.2017

**O R D E R**

**Per Pramod Kumar, AM:**

1. This appeal by the Revenue and the cross-objection thereof by the assessee are directed against the order dated 04.03.2015 passed by the learned CIT(A)-6, Ahmedabad in the matter of assessment under Section 143(3) of the Income-tax Act, 1961 for the Assessment Year 2011-12.

2. The grievance raised by the Assessing Officer is as follows:-

*"The Id. CIT(A) has erred in deleting the addition on disallowance of depreciation of Rs.10,14,030/- on motor car despite the fact that the car is registered in the name of directors and the assessee is not having the ownership over the asset."*

3. So far as the appeal of the Revenue is concerned, at the outset, the learned counsel for the assessee points out that the appeal of the Revenue needs to be dismissed on account of low tax effect in view of the CBDT Circular No.21 of 2015 dated 10.12.2015. The learned Departmental Representative fairly admitted that the tax effect is less than the limit prescribed by the aforesaid CBDT Circular.

4. Having heard the rival contentions and having perused the material on record, we find that *prima-facie* this appeal of the Revenue is not maintainable in view of CBDT Circular No. 21/2015 in F.No.279/Misc. 142/2007-ITJ (Pt) dated 10th

December 2015, vide which it has been provided that if the tax effect by virtue of the Commissioner of Income-tax (Appeals)'s order is below Rs. 10 lacs, then that order would not be challenged before the Tribunal in further appeal. The Board has provided exemptions at clause (8) of the Instructions wherein it has been provided that these instructions will not be applicable, if vires of any provisions has been quashed by impugned order or addition was made on some audit objections or the addition relates to undisclosed foreign assets/bank accounts, etc. We find that the present case does not fall within the exemption clause and the tax is less than Rs.10 lacs. Therefore, the present appeal is not maintainable and hence dismissed.

5. The appeal of the Revenue is thus dismissed *in limine*.

6. We now take up the cross-objection filed by the assessee.

7. The sole substantive ground taken by the assessee in its cross-objection reads as under:

*“The Id. CIT (A) has erred in law and on facts in confirming the disallowance of depreciation on motor car of Rs.3,38,010/- out of total disallowance of Rs.13,52,040/- (i.e. Rs.13,52,040/- - Rs.10,14,030/- = Rs.3,38,010/-) by holding that 75% of the depreciation is held to be allowable and the balance 25% is held to be not wholly and exclusively for the purposes of the business. The Id. CIT(A) ought to have deleted the entire disallowance of Rs.13,52,040/- made by the Id. AO for AY 2011-12.”*

6. So far as this grievance of the assessee is concerned, it is pertinent to observe that the CIT(A) has confirmed 25% of the total disallowance amounting to Rs.13,52,040/- on account of disallowance of depreciation on car, which comes to Rs.3,38,010/-, following his predecessor's order for assessment year 2010-11. On the same ground with similar facts and contentions, in the case of assessee for assessment year 2008-09 also, the CIT(A) allowed the depreciation of 75%; however, in the absence of any log book, 25% of depreciation was disallowed by invoking provision of Section 38(2) of the Act, treating the same as not wholly and exclusively for the purpose of business. That is the position which has achieved finality. Learned CIT(A) followed similar ratio in assessment year 2009-10 as well. In view of the above, as also bearing in mind entirety of the case, we see no reasons to interfere in the conclusions arrived at by the Id. CIT(A). We confirm the same and decline to interfere in the matter.

7. The cross-objection of the assessee is, thus, dismissed.

8. In the result, appeal, the appeal and cross-objection, both are dismissed. Pronounced in the open court today on the 25<sup>th</sup> day of September, 2017.

Sd/-

Sd/-

**S S Godara**  
(Judicial Member)

**Pramod Kumar**  
(Accountant Member)

**Ahmedabad, the 25<sup>th</sup> day of September, 2017**

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Copies to: (1) *The appellant*  
(2) *The respondent*  
(3) *Commissioner*  
(4) *CIT(A)*  
(5) *Departmental Representative*  
(6) *Guard File*

*By order*

*TRUE COPY*

*Assistant Registrar  
Income Tax Appellate Tribunal  
Ahmedabad benches, Ahmedabad*