

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'SMC' अहमदाबाद ।

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

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
& SMT. MADHUMITA ROY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 2676/Ahd/2016

(निर्धारण वर्ष / Assessment Year : 2012-13)

ITO, Ward 3(2)(7), Ahmedabad	बनाम/ Vs.	Shri Kiritbhai Narottamdas Patel, Prop. Karnavati Engineering Works, Plot No.619/A, Phase-IV, GIDC, Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AENPP8130R		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Alok Kumar, Sr. D.R.
प्रत्यर्थी की ओर से / Respondent by :	Shri M. K. Patel, A.R.

सुनवाई की तारीख / Date of Hearing	02/07/2018
घोषणा की तारीख /Date of Pronouncement	17/07/2018

आदेश/ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the Revenue against the order of the CIT(A)-3, Ahmedabad ('CIT(A)' in short), dated 4th August, 2016 arising in the assessment order dated 26.03.2015 passed by the Assessing Officer (AO) under s. 143(3) of

the Income Tax Act, 1961 (the Act) concerning assessment year 2012-13.

2. With the assistance of the representatives for Revenue and the Assessee, we have carefully examined the issue. While it is the case of the Revenue that the element of excise duty and VAT amounting to Rs.38,74,927/- represents part of the closing stock of the assessee in terms of Section 145A of the Act, it is the case of the assessee on the other hand that Section 145A has no application to the facts of the case. It is further case of the assessee that the assessee follows exclusive method of accounting for valuation of inventory and therefore, entire exercise would be taxed neutral. It is the case of the assessee that on account of the exclusive method of accounting, the excise duty and VAT is excluded at the threshold and accounted for separately as a balance sheet item. Thus, when the purchase cost does not include the excise duty and VAT etc. and consequently do not form part of the profit & loss account, there is no warrant to include such duty and costs in the closing stock. It is the case of the assessee that when seen in perspective, accounting method adopted by the assessee is revenue neutral and does not make any impact on the profitability of the concern *per se*. In the backdrop of facts noted above, we do not see any error in the conclusion drawn by the CIT(A). In essence, there will be no infringement of Section 145A where the action of assessee is revenue neutral. In this regard, the CIT(A)

observed that the issue is no longer *res integra* and adjudicated the issue in favour of the assessee placing reliance upon several decisions of the co-ordinate bench of Tribunal as listed in the order of the CIT(A). The conclusion of CIT(A) is on legally sound footing. In these circumstances, we decline to interfere with the order of the CIT(A).

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

This Order pronounced in Open Court on 17/07/2018

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER
Ahmedabad: Dated 17/07/2018

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अद्येषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।