

आयकर अपीलिय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 767/JP/2018
निर्धारण वर्ष/Assessment Year : 2014-15

Income Tax Officer, Ward 2(1), Ajmer.	बनाम Vs.	Ashish Agarwal & Sons (HUF), "Jatan" Todarmal Marg, Civil Lines, Ajmer.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAMHA 0486 N		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

राजस्व की ओर से / Revenue by : Shri J.C. Kulhari (JCIT)

निर्धारिती की ओर से / Assessee by : Shri Hemang Gargieya (Adv.).

सुनवाई की तारीख / Date of Hearing: 27/07/2018

उदघोषणा की तारीख / Date of Pronouncement : 30/07/2018

आदेश / ORDER

PER: VIKRAM SINGH YADAV, A.M.:

This appeal by the Revenue is directed against the order dated 15/03/2018 of CIT (A), Ajmer for the assessment year 2014-15. The Revenue has raised the sole ground of appeal, which is as under:-

In view of the facts and circumstances of the case, the Id CIT(A) Ajmer has erred in :

"i) cancelling the penalty levied for additions of Rs. 11,04,396/- levied for additions of Rs. 34,57,431/- made u/s 68 of the I.T. Act, 1961 and on account of commission payment of Rs. 1,16,669/- without appreciating the facts of the case that the assessee wrongly claimed exemption U/s 10(38) of the I.T. Act, 1961 on account of long term capital gain on shares and surrender thereof for taxation, was not voluntarily made during the course of survey proceedings."

ii) *The appellant craves to add, amend, alter, delete or modify the above grounds of appeal before or at the time of hearing."*

2. At the time of hearing, the Id. AR of the assessee has raised an objection of maintainability of the appeal of the Revenue due to the tax effect not exceeding Rs. 20 lacs as per the CBDT Circular No. 3 of 2018 dated 11th July, 2018. The Id. A/R submitted that in the facts of the present case, tax effect in Revenue's appeal is stated to be Rs. 11,04,396/- on the addition of Rs. 45,76,265/- which is below the prescribed limit of Rs 20 lacs.

3. The Id. D/R has fairly submitted that the tax effect involved in the Revenue's appeal is less than 20 lacs which is prescribed threshold limit in terms of the CBDT Circular No. 3/2018 dated 11th July, 2018 issued in supersession of its earlier Circular No. 21 of 2015 dated 10.12.2015.

4. We have heard the rival contentions and perused the materials available on record. It is observed that the demand/ tax effect in the Revenue's appeal in question is below Rs. 20.00 lacs. Under the powers vested by section. 268A(1) of the I T Act, CBDT has recently issued Circular No. 3/2018 dated 11th July, 2018 (F No. 279/Misc. 142/2007-ITJ(Pt) instructing the authorities below that departmental appeal should not be filed before ITAT where the demand/tax effect does not exceed Rs. 20 lacs. The circular is specifically mentioned to be applicable for all pending appeals.

5. Subject to some exceptions, it is further directed by CBDT that all the departmental appeals pending before ITAT where the demand/tax effect is not

exceeding than 20 lacs should be either withdrawn or not pressed by the departmental representatives.

6. The present appeal is not covered by any exceptions mentioned in the said CBDT circular. Since the tax demand in dispute in this departmental appeal is below the limit set out by CBDT for the appeal, the appeal of the assessee is not maintainable in view of CBDT Circular No. 3 of 2018 dated 11.07.2018. Accordingly the appeal of the Department is dismissed as not pressed/withdrawn.

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

Order pronounced in the open court on 30/07/2018.

Sd/-
(विजय पाल राव)
(Vijay Pal Rao)
न्यायिक सदस्य / Judicial Member

Sd/-
(विक्रम सिंह यादव)
(Vikram Singh Yadav)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur
दिनांक / Dated:- 30th July, 2018

*Ranjan

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

1. अपीलार्थी / The Appellant- The ITO, Ward 2(1), Ajmer.
2. प्रत्यर्थी / The Respondent- Shri Ashish Agarwal & Sons (HUF), Ajmer.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 767/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar