

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

[Coram: Pramod Kumar AM and Mahavir Prasad JM]

ITA No.2124/Ahd/2013
Assessment Year: 2010-11

Income Tax Officer

Ward – 7(2), Ahmedabad.

.....**Appellant**

Vs.

APT Business Services (LLP),

8, Ashirvad – III,

Prahladnagar,

Satellite,

Ahmedabad - 380 015.

[PAN : AAQFA 4500 R]

.....**Respondent**

C.O. No.18/Ahd/2014
(In ITA No.2124/Ahd/2013)
Assessment Year: 2010-11

APT Business Services (LLP),

8, Ashirvad – III,

Prahladnagar,

Satellite,

Ahmedabad - 380 015.

[PAN : AAQFA 4500 R]

.....**Appellant**

Vs.

Income Tax Officer

Ward – 7(2), Ahmedabad.

.....**Respondent**

Appearances by:

Saurabh Singh *for the Revenue*

S.N. Soparkar & Parin Shah *for the assessee*

Date of concluding the hearing : 12.07.2018

Date of pronouncing the order : 17.07.2018

O R D E R

Per Pramod Kumar, AM:

1. By way of this appeal, the Assessing Officer has challenged correctness of the order dated 18.06.2013, passed by the learned CIT(A)-XIV, Ahmedabad for the assessment year 2010-11, on the following grounds:

"i) The Ld. CIT(A) has erred in law and on facts, in holding that the AO has erred in disallowing deduction/exemption claimed u/s.10B of the Act for Rs.51,86,678/- when no such disallowance is called for.

ii) The Ld. CIT(A) has further erred in law and on facts in truly interpreting the explanation (iv) below Section 10B defining the "Hundred Percent Export Oriented Undertaking" and allowing the deduction u/s.10B for the period during which the Undertaking was not registered by the STPI, Gandhinagar.

iii) On the facts and circumstances of the case, the Ld. CIT(A) ought to have upheld the order of the Assessing Officer.

iv) It is, therefore, prayed that the order of the Ld. CIT(A) may be set aside and that of the Assessing Officer be restored."

2. At the outset, learned counsel for the assessee submitted that the present appeal of the Revenue needs to be dismissed on account of low tax effect in view of the recent CBDT Circular No.3 of 2018 dated 11.07.2018. The learned Departmental Representative fairly admitted that the tax effect involved in this appeal is less than the limit prescribed by the aforesaid CBDT Circular.

3. We have heard the rival submissions and perused the material available on record. We find that prima-facie this appeal of the Revenue is not maintainable in view of the recent CBDT Circular No.3/2018 in F.No.279/Misc.142/2007-ITJ (Pt) dated 11th July, 2018, vide which it has been decided by the Board that no departmental appeals should be filed before the Tribunal if the tax effect by virtue of the Commissioner of Income-tax (Appeals)'s order is below Rs. 20 Lacs. The Board has provided exemptions at clause (10) of the Instructions wherein it has been provided that these instructions will not be applicable, where the Constitutional validity of the provisions of an Act/Rule is under challenge or where Board's order, notification, instruction or circular has been held to be illegal or where Revenue Audit objection in the case has been accepted by the Department or where 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 effect is less than Rs.20 Lacs. Therefore, the present appeal is not maintainable and hence dismissed.

4. Coming to the Cross Objection filed by the assessee, as the appeal itself is held to be non-maintainable, the very foundation of Cross Objection ceases to hold good in law. The Cross Objection is, therefore, also dismissed.

5. In the result, appeal filed by the Revenue and Cross Objection filed by the assessee, both are dismissed. Pronounced in the open Court today on the 17th day of July, 2018.

Sd/-
Mahavir Prasad
(Judicial Member)

Sd/-
Pramod Kumar
(Accountant Member)

Ahmedabad, the 17th day of July, 2018
PBN/*

Copies to:

- (1) *The appellant*
- (2) *The respondent*
- (3) *Commissioner of Income Tax*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

By order

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