

आयकर अपीलीय 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. 792/JP/2018
निर्धारण वर्ष / Assessment Year : 2012-13

The ACIT, Circle-1, Kota.	बनाम Vs.	Shri Ajay Kumar Jain 277, Shopping Centre, Kota.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AANPJ 1861 B		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : None
राजस्व की ओर से / Revenue by : Shri J. C. Kulhari (J.CIT)

सुनवाई की तारीख / Date of Hearing : 27/07/2018
उदघोषणा की तारीख / Date of Pronouncement: 30/07/2018

आदेश / ORDER

PER: VIJAY PAL RAO, J.M.

This appeal by the Revenue is directed against the order dated 08.03.2018 of CIT(A), Kota for the assessment year 2012-13. The Revenue has raised the following ground as under:-

" On the facts and in the circumstances of the case, the Id. CIT(A) has erred in:-

(i) On the facts and in the circumstances of the case, the CIT(A) has erred in deleting the addition of Rs. 48,727/- made by the AO u/s 14A R.W. Rule 8D.

(ii) the appellant craves liberty to raise additional ground and to modify/amend the ground of appeal at the time of hearing."

2. None has appeared on behalf of the assessee-respondent this appeal was called for hearing. The only grievance of the Revenue is against the addition of Rs. 48,727/- made U/s 14A of the Act deleted by the Id. CIT(A). Undisputedly tax effect in this appeal of the Revenue is not exceeding Rs. 20 lacs whereas as per the Circular No. 3/2018 dated 11.07.2018 of CBDT the Department shall withdraw all the appeals having tax effect not exceeding Rs. 20 lacs pending before the Tribunal. The Id. DR has submitted that as it is apparent from the grounds of appeal the issue falls in the exception under para 10(b) of Circular No. 3/2018.

3. We find that the AO made disallowance of Rs. 48,727/- U/s 14A which was deleted by the Id. CIT(A) by recording the fact that the assessee's own interest free fund was more than sufficient for the investment in question and therefore, the disallowance made by the AO on account of interest expenditure is not called for. At the outset we note that the CIT(A) has deleted the disallowance made by the AO by giving a finding of fact that no expenditure was incurred by the assessee for earning exempt income. Further, as per Clause (b) of para

10 of Circular No. 3/2018 the issue which involves the Board order, notices, instruction and Circular which has been held to be illegal or ultra vires are required to be contested on merits even if the tax effect is less than mandatory limit prescribed in these circular. The issue of disallowance made U/s 14A does not involve the question of holding any Board order, notices, instruction and Circular as illegal or ultra vires. Accordingly, this issue does not fall in the exception as claimed by the Department. Hence, when the tax effect in this appeal of the Revenue is not exceeding the limits provided in the Circular No. 3/2018 the same is not maintainable. Accordingly the appeal of the Revenue is dismissed.

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

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

Sd/-

(विक्रम सिंह यादव)

(Vikram Singh Yadav)

लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 30/07/2017.

*Santosh.

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

1. अपीलार्थी / The Appellant- The ACIT, Circle-1, Kota.
2. प्रत्यर्थी / The Respondent- Shri Ajay Kumar Jain, Kota.
3. आयकर आयुक्त / CIT

Sd/-

(विजय पाल राव)

(Vijay Pal Rao)

न्यायिक सदस्य / Judicial Member

4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 792/JP/2018}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar