

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद ।

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD – BENCH ‘B’

BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 3193/Ahd/2016

निर्धारण वर्ष/Assessment Year: 2013-14

DCIT, Cir.2(1)(1) Ahmedabad.	Vs	HDB Financial Services Ltd. 2 nd Floor, Radhika Law Garden Navrangpura Ahmedabad 380009.
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
Revenue by :	Shri Mudit Nagpal,Sr.DR
Assessee by :	Ms.Ira Kapoor, with Shri P.M. Mehta

सुनवाई की तारीख/Date of Hearing : 02/08/2018

घोषणा की तारीख /Date of Pronouncement : 13 /08/2018

ORDER

PER RAJPAL YADAV, JUDICIAL MEMBER : Revenue is in appeal before the Tribunal against order of the Id.CIT(A)-2, Ahmedabad dated 28.9.2016 for the assessment year 2013-14 challenging deletion of addition of Rs.31,56,766/-made by the AO under section 14A of the Income Tax Act, 1961.

2. At the outset, the Id.counsel for the assessee for the assessee pointed out that the appeal of the Revenue is not maintainable in view of recent CBDT Circular No.3/2018 dated 11.7.2018 restricting the filing of the appeal by the Revenue where the tax effect is below Rs.20 lakh. The tax

effect on the disputed addition is below Rs.20 lakhs, therefore, appeal of the Revenue is liable to be dismissed. Id.DR did not dispute the submissions of Id.counsel for the assessee, but submitted that the issue is left to the Tribunal to be decided in accordance with law.

3. We find that the appeal of the Revenue is presented on 8.9.2016. On 8.1.2016 the CBDT has issued Instructions bearing No. 3 of 2018 under file No.F.No.279/Misc.142/2007-ITJ(Pt) prohibiting its subordinate authorities from filing of the appeal to the Tribunal against the order of the CIT(A) where the tax effect by virtue of the relief given by the CIT(A) is less than Rs.20 lakhs. The instructions have been made applicable with retrospective effect, meaning thereby, these instructions are applicable on pending appeals also. In the present case, the disputed addition is of Rs.31,56,766/- under section 14A of the Act, and therefore, the “tax effect” as per CBDT Circular is tax on the total income assessed minus the tax that would have been chargeable had such total income been reduced by the amount of income in respect of the issue against which appeal is filed, would be less than Rs.20 lakhs. Therefore, the present appeal of the Revenue is hit by the CBDT Circular and hence not maintainable. Further, Id.DR has not pointed out whether the case of the Revenue fall within the ambit of exceptions provided in the Circular or not. Thus, keeping in view the above CBDT circular and provisions of section 268A of the Income Tax Act, we are of the view that the present appeal of the Revenue deserves to be dismissed. It is accordingly dismissed.

However, it is observed that in case on re-verification at the end of the AO it comes to the notice that the tax effect is more or Revenue’s case falls within the ambit of exceptions provided in the Circular, then the

Department will be at liberty to approach the Tribunal for recall of this order. Such application should be filed within the time period prescribed in the Act. In view of the above, the appeal of the Revenue is dismissed due to low tax effect.

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

Pronounced in the Open Court on 13th August, 2018.

**Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER**

**Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER**