

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'बी' अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, AHMEDABAD

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

आयकर अपील सं./ ITA No. 3192/Ahd/2016
Assessment Year : 2013-14

The Deputy Commissioner of Income-tax, Circle-2(1)(1), Ahmedabad	Vs	Integrated Coating and Seed Technology India Pvt Ltd, 47, Mahagujarat Industrial Estate, Opp. Pharmalab, Sarkhej-Bavla Highway, At. Moraiya, Tal. Sanand, Ahmedabad-382213 PAN : AABCI 1946 H
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Revenue by :	Shri Mudit Nagpal, Sr DR
Assessee by :	Shri Dhinal Shah, AR

सुनवाई की तारीख/Date of Hearing : 02/08/2018
घोषणा की तारीख /Date of Pronouncement: 04/09/2018

आदेश/ORDER

PER RAJPAL YADAV, JUDICIAL MEMBER :-

1. The present appeal is directed at the instance of the Revenue against the order of the learned CIT(A)-2, Ahmedabad dated 06.09.2016 passed for Assessment Year 2013-14.

2. The Revenue has taken following grounds of appeal:-

"1. The Ld. CIT(A) has erred in law and on facts in deleting the disallowance on account of upward adjustment of management fees amounting to Rs.41,55,534/- without properly appreciating the facts of the case and the material brought on record.

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

3. At the outset, Id. 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 is less than the limit prescribed by the aforesaid CBDT Circular.

4. 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.

5. In the result, the appeal of the Revenue is thus dismissed *in limine*.

Order pronounced in the Court on 4th September, 2018 at Ahmedabad.

Sd/-

Sd/-

(WASEEM AHMED)
ACCOUNTANT MEMBER
Ahmedabad, Dated 04/09/2018

(RAJPAL YADAV)
JUDICIAL MEMBER

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि,आयकर अपीलीय अधिकरण ,राजकोट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

TRUE COPY

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण
ITAT, Ahmedabad