

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

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

आयकर अपील सं./ITA No. 35/JP/2014
निर्धारण वर्ष/Assessment Year : 2009-10.

The Income Tax Officer, Ward 6(1), Jaipur.	बनाम Vs.	Shri Anil Bijlani, 53/114, Veer Tejaji Road, Mansarovar, Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN No. AAMPB 7543 F		
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent

राजस्व की ओर से/ Revenue by: Shri Rajendra Jha (JCIT)
निर्धारिती की ओर से/ Assessee by : Shri G.N. Sharma

सुनवाई की तारीख/ Date of Hearing : 07.08.2018.
घोषणा की तारीख/ Date of Pronouncement : 08/08/2018.

आदेश / ORDER

PER VIJAY PAL RAO, JM :

This appeal by the revenue is directed against the order dated 11.11.2013 of Id. CIT (A)-II, Jaipur for the assessment year 2009-10. The revenue has raised the following grounds :-

" On the facts and in the circumstances of the case and in law the Id. CIT (Appeals), Bikaner Camp at Jaipur has erred in :

- (i) Whether the Id. CIT (Appeals) has erred in deleting addition of Rs. 37,46,757/- made on account of unexplained payment made to banks for expenses incurred through Credit cards.
- (ii) Whether the Id. CIT (Appeals) has erred presuming that transactions of Credit Cards were in the nature of retail trade carried by the assessee.
- (iii) The appellant craves its rights to add, amend or alter any of the grounds on or before the hearing.

2. The dispute in this appeal of the revenue is regarding the deletion of addition of Rs. 37,46,757/- made by the AO on account of unexplained payment made to banks for expenses incurred through Credit Cards. Admittedly the tax effect in the revenue's appeal is not exceeding the limit of Rs. 20 lacs as per CBDT Circular No. 3 of 2018.

2.1. 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.

3. 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 IT 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.

4. 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.

5. 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 08/08/2018.

Sd/-

(विक्रम सिंह यादव)
(VIKRAM SINGH YADAV)
लेखा सदस्य/Accountant Member

Sd/-

(विजय पाल रॉव)
(VIJAY PAL RAO)
न्यायिक सदस्य/Judicial Member

Jaipur

Dated:- 08/08/2018.

Das/

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

1. The Appellant- The ITO Ward 6(1), Jaipur.
2. The Respondent –Shri Anil Bijlani, Jaipur.
3. The CIT(A).
4. The CIT,
5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 35/JP/2014)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar

