

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

[Coram: Pramod Kumar AM and Rajpal Yadav JM]

ITA No. 1764/Ahd/2015
Assessment Year: 2003-04

DCIT**Appellant**
*Circle 1(1)(1),
Vadodara*

Vs.

Ambalal Sarabhai Enterprises Limited**Respondent**
*Wadi Wadi, Vadodara – 390 023
[PAN : AABCA 6893 K]*

Appearances by:

*MS Khan, for the Appellant
Parin Shah, for the Respondent*

Date of concluding the hearing : 11.09.2018
Date of pronouncing the order : 11.09.2018

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 20.03.2015, passed by the learned CIT(A)-1, Vadodara for the assessment year 2003-04, on the following grounds:

1. *On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in*
 - (i) *allowing various expenses viz. Miscellaneous Expenses, Telephone Expenses, Vehicle expenses, etc. aggregating to Rs.2,42,418/-without appreciating the findings brought out by AO in the assessment order, also ignoring the fact that assessee failed to substantiate its claim.*
 - (ii) *deleting adhoc disallowance of Rs.1,33,522/- made @5% out of selling expenses, ignoring the fact that assessee failed to establish the nexus between personal expenses & business expenses.*
 - (iii) *deleting disallowance of Rs.4,92,000/- claimed as a loss in respect of its Packart Press Unit, ignoring the fact that the Packart Press Unit was closed and that, there were no business activities during the year.*
 - (iv) *deleting disallowance of Rs.1,85,994/-, being prior period expenses, ignoring the system of accounting regularly followed by assessee, which is mercantile.*

- (v) *deleting disallowance of Rs.1,48,456/- made on account of Foreign Travel Expenses, without appreciating the fact that assessee neither could give plausible explanation, nor could justify the long period of stay.*
- (vi) *restricting disallowance of Rs.67,50,000/- made u/s 14A of the IT Act to Rs.33,75,000/-, without appreciating the fact that AO has rightly computed the disallowance as per provisions of Rule 8D of IT Rules."*

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. In the result, the appeal of the Revenue is dismissed. Pronounced in the open court today on the 11th September, 2018

Sd/-

Rajpal Yadav
(Judicial Member)

Ahmedabad, the 11th day of September, 2018

**bt

Copies to: (1) The appellant
(2) The respondent
(3) Commissioner
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

Sd/-

Pramod Kumar
(Accountant Member)

By order

TRUE COPY

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad