

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD 'A' BENCH, AHMEDABAD**

[Coram: Pramod Kumar AM and Mahavir Prasad JM]

ITA No.796/Ahd/2012
Assessment Year: 2005-06

Dy. Commissioner of Income-tax**Appellant**
Circle-4, Baroda

Vs.

Sayaji Hotels Limited**Respondent**
*Opp. Rajshree Talkies,
Kala Khoda, Sayajigunj,
Baroda-390 005
[PAN : AADCS 2086 A]*

Appearances by:

MSA Khan, for the Appellant
SN Soparkar & Urvashi Shodhan, for the Respondent

Date of concluding the hearing : 18.09.2018
Date of pronouncing the order : 18.09.2018

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 31st January 2012, passed by the learned CIT(A)-V, Baroda for the assessment year 2005-06, on the following ground:

“ On the facts and in the circumstances of the case and iin law the learned CIT(A) has erred in deleting the addition made u/s 40(a)(ia) of the Act on account of non deduction of TDS on payment of Car Hire Charges as mandated under provisions of section 194C of the Income-tax Act.”

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 18th September, 2018

Sd/-

Mahavir Prasad
(Judicial Member)

Ahmedabad, the 18th day of September, 2018

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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