

आयकर अपीलीय अधिकरण।
IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT-BENCH, SURAT
BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA.No.1126/Ahd/2016

निर्धारण वर्ष/ Asstt. Year: 2011-12

ITO, Ward-2(2)(5) Surat.	Vs.	Shri Naren S. Burade Prop. Of Varee Infotech 301-302, Vallabh Complex Kotwal Street Nanpura, Surat. PAN : ABLPB 3019 L
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Revenue by :	Smt.Smita Nair, Sr.DR
Assessee by :	Shri Hiren R. Vepari, CA

सुनवाई की तारीख/Date of Hearing : 16/11/2018

घोषणा की तारीख /Date of Pronouncement: 16/11/2018

आदेश/O R D E R

PER RAJPAL YADAV, JUDICIAL MEMBER:

Revenue is in appeal before the Tribunal against order of ld.CIT(A)-III, Surat dated 5.2.2016 passed for the Asstt.Year 2011-12.

2. In the grounds of appeal, Revenue has challenged deletion of addition of Rs.44,04,303/- made by the AO on account of exemption u/s.10A of the Act.

3. At the very outset, the ld.counsel for the assessee has drawn our attention towards recent CBDT Circular restricting filing of appeal by the Revenue before the Tribunal where tax effect is below Rs.20 lakhs. He pointed out that tax effect in the present case is below monetary limit prescribed by the CBDT,

and therefore, appeal of the Revenue is liable to be dismissed at the threshold. He filed a calculation sheet demonstrating tax effect in the impugned addition being below Rs.20 lakhs. It reads as under:

<i>Particulars</i>		<i>Amount</i>
<i>Exemption u/s.10A of the Act</i>		<i>44,04,303</i>
<i>Tax @ 30.9%</i>		<i>Rs.13,60,930</i>

4. When the Bench pointed out to the Id.DR about maintainability Revenue's appeal before the Tribunal in view of recent CBDT circular cited by the Id.counsel for the assessee, the Id.DR was unable to dispute the same and tax effect calculated by the assessee, but left to Tribunal to decide the appeal in accordance with law.

5. We have heard Id.DR and gone through the impugned orders. We find that appeal of the Revenue, which is filed on 8.1.2014 is hit by recent CBDT instruction no.3 of 2018 dated 2.5.2016 whereby the Board has prohibited its subordinate authorities from filing of the appeal before 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 tax effect on the disputed addition does not exceed Rs.20 lakhs, which has not been disputed by the Id.DR. 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.

6. In the result, appeal of the Revenue is dismissed due to low tax effect
Order pronounced in the Court on 16th November, 2018 at Surat.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER