

आयकर अपीलीय अधिकरण

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCHES, SURAT**

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

Sr. No.	ITA No.	Name of Appellant	Name of Respondent
1	1309/AHD/2016 With CO No.105/Ahd/2016 Asstt.Year : 2010-11	ITO (Exemption) Ward, Surat.	Sarvangi Vikas Trust, Surat. PAN : AAETS 9923 L
2	579/AHD/2017 Asstt.Year : 2012-13	ITO, Ward-1(4) Bharuch.	Smt.Santosh J. Yadav, Bharuch. PAN : AAHPY 6163 H
3	127/SRT/2017 A.Y. : 2014-15	DCIT, Cir.2 Surat.	Patel Vishunbhai Kantilal Co. PAN : AACFP 9443 J
4	3051/Ahd/2016 A.Y.2012-13	ITO, Ward-2(4) Surat.	Shri Dipesh Lalchand Shah, Surat PAN : AFSPS 3839 J
5	ITSS(A)No.152/Ahd/2017 A.Y.2009-10	DCIT, Cent.Cir.4 Surat	Shri Hitendra Dullabhbhai Patel, Surat. PAN : ACFPP 4596 F
6	2009/Ahd/2014 With CO No.223/Ahd/2014 A.Y.2008-09	ACIT, Cir. Bharuch.	M/s.Vasanti Share Brokers, Bharuch. PAN : AABCV 7604 F
7	1829/Ahd/2016 A.Y.2011-12	ITO, Ward-1(1)(3) Surat.	Kabir Jewels P.Ltd. Surat. PAN : AABCK 5348 M

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8-9	41 and 42/Ahd/2014 A.Y.2005-06 and 2007-08	ITO, Ward-4(4) Surat	M/s.Taha Wires P.Ltd. Surat PAN : AAAC 8700 H
10	1611/Ahd/2014 A.Y.2009-10	ACIT, Cir.2 Surat.	Tirupati Enterprises Surat. PAN : AAOFM 5215 B
11	1756/Ahd/2013 A.Y.2006-07	ACIT, Cir.4 Surat	M/s.R.S.Tradelink P.Ltd. Surat PAN : AABCR 6607 A
12	676/Ahd/2014 with CO No.138/Ahd/2014 Asstt.Year 2009-10	ACIT, Vapi Range Vapi.	Bayer Vapi P.Ltd., Vapi. PAN : AABCB 2100 L

Revenue by :	Shri Prasantji Singh, CIT-DR Smt.Smita Nair, Sr.DR
Assessee by :	None

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

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

आदेश/ORDER

PER BENCH:

The above appeals are filed by the Revenue against the orders of Id.Commissioner Income-Tax (Appeals) involving respective assessment years. Upon receipt of notice on the Revenue's appeals, some of the assessee's mentioned in the cause-title have also filed cross objections.

2. The Central Board of Direct Taxes vide Circular No. 3 of 2018 dated 11.7.2018 has raised threshold monetary limits for filing Departmental Appeals before the Appellate Tribunals. Accordingly, the CBDT has

instructed the Department not to file appeals before the Income Tax Appellate Tribunal where tax effect including surcharge is below Rs.20.00 lakhs. This circular is applicable to the pending appeals also. Accordingly, Registry of the Tribunal identified appeals filed by the Revenue where tax effect is below Rs.20.00 lakhs. A List of such appeals was accordingly prepared and placed on the notice board of the Tribunal.

3. In this behalf, when a query was raised by the Bench, the Id.Departmental Representatives though, in principle, did not dispute the applicability of the above CBDT circular in the present cases, but submitted that liberty may be given to the Department to apply for recall of the order in such cases where tax effect, on further verification of the record, is found to be more than Rs.20 lakhs, or such cases which are mistakenly listed and summarily dismissed due to low taxes.

4. We find that on 11.7.2018 the CBDT has issued Instructions bearing No. 3 of 2018 under file No.F.No.279/Misc.142/2007-ITJ(Pt) prohibiting its subordinate authorities from filing of the appeal to 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 cases, "tax effect" on the total income assessed minus the tax that would have been chargeable had such total income been reduced by the amount of income in respect of the issue against which appeal is filed, is less than Rs.20 lakhs. Further, it has not been pointed out to us, whether any of the

cases of the Revenue fall within the ambit of exceptions provided in the Circular. 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 appeals of the Revenue deserve to be dismissed. They are accordingly dismissed. However, we are not adjudicating COs filed by the assessee, which will be heard and disposed of separately. Registry is directed to list three COs mentioned in the cause title for hearing in due course of time.

5. It is observed that in case on re-verification at the end of the AO it can be demonstrated 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 relatable to such cases. Such application should be filed within the time period prescribed in the Act. In view of the above, the appeals of the Revenue are dismissed due to low tax effect.

6. In the result, all the appeal of the Revenue are 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**

Surat; Dated 16/11/2018