

आयकर अपीलिय अधिकरण, सुरत न्यायपीठ, सुरत
IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
श्री सी.एम.गर्ग, न्यायिक सदस्य तथा श्री ओ.पी.मीना, लेखा सदस्य के समक्ष
BEFORE SHRI C.M.GARG, JUDICIAL MEMBER
AND SHRI O.P.MEENA, ACCOUNTANT MEMBER

आ.अ.सं./I.T.A. No.3092/AHD/2016/SRT
निर्धारण वर्ष/Assessment Year : 2011-12

The Deputy Commissioner of Income Tax, Central Circle-2, Surat.	Vs.	M.D.Infra Developers, 4 th Floor, Sheron Plaza, Opp.Trishla Apartment, Parle Point, Surat – 395 002. [PAN: AASFM 7357 A]
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से /Assessee by	Shri Mitish Modi - CA
राजस्व की ओर से /Revenue by	Shri Prasenjeet Singh - CIT - DR

सुनवाई की तारीख/ Date of hearing:	04.10.2018
उद्घोषणा की तारीख/Pronouncement on	04.10.2018

आदेश /ORDER

PER O. P. MEENA, ACCOUTANT MEMBER:

1. This appeal filed by the Revenue is directed against the order of learned Commissioner of Income Tax (Appeals)-4, Surat(in short “the CIT (A)”) dated 12.09.2016 pertaining to Assessment Year 2011-12 which in turn has arisen from the order passed by the Deputy Commissioner of Income Tax, Central Circle-2, Surat(in short “the AO”) dated 31.03.2015 under section 144 r.w.s 153A of Income Tax Act,1961 (in short ‘the Act’).

2. We have heard the Ld. Departmental Representative and perused the material available on record and find that tax effect involved in this appeal is below Rs. 20 Lakhs. The ld. DR also did not dispute this fact. We find that the CBDT vide Circular No.3/2018 Dated 11.07.2018 [F.No.279/Misc.142/2007-ITJ (Pt)] has revised the monetary limit for filing of appeal before Tribunal fixing the tax effect limit at Rs.20 lacs. The said Circular supersedes the earlier Circular(s) issued on the subject of tax effect and applies to all pending appeal retrospectively. The Board has provided exceptions provided under para 10 of the Circular wherein it has been provided that the issues related is to be contested **(a)** where the Constitution validity of the provision of the Act or **(b)** Rule is under challenge or **(c)** where Board`s order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or where Revenue Audit objections has been accepted by the Department or **(d)** where the addition relates to undisclosed foreign assets/bank accounts, etc.

3. We find that the present case does not fall within the exceptions clause and the tax demand is less than Rs.20 lacs. Therefore, the present appeal is not maintainable as per recent

Circular (supra) and hence the same is dismissed. However, we may make it clear that the Revenue is at liberty to approach the Tribunal for recalling this order, if it comes to the notice of the Assessing Officer that the tax effect is more than the monetary limit prescribed under Circular or Revenue`s case falls within the ambit of the exceptions provided in the Circular.

4. In the result, the appeal of the Revenue stands dismissed.
5. The order pronounced in the open court on 04-10-2018.

Sd/-

(सी.एम.गर्ग /C.M. GARG)

न्यायिकसदस्यतथा/JUDICIAL MEMBER

सुरत/ Surat, दिनांक Dated: 4th October, 2018/S.Gangadhara Rao, Sr.PS

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

Sd/-

(ओ.पी.मीना/O.P.MEENA)

लेखासदस्यकेसमक्ष /ACCOUNTANT MEMBER

By order

/ / TRUE COPY / /

Assistant Registrar, Surat