

आयकर अपीलीय 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.2453/Ahd/2014:निर्धारण वर्ष/Assessment Year:2011-12

Assistant Commissioner of Income Tax, Circle- 2 Surat	Vs.	Shri Rajesh K Jain, Block No. A/24, Ro No. 14, Udhna Udyog Nagar , U. M. Road Surat 395008 PAN: ABBPJ5375K
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से /Assessee by	None
राजस्व की ओर से /Revenue by	Ms. Smitha Nair, Sr. D.R.
सुनवाई की तारीख/ Date of hearing:	16.10.2018
उद्घोषणा की तारीख/Pronouncement on :	16.10.2018

आदेश /O R D E R

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)-II, Surat dated 10.06.20145 pertaining to Assessment Year 2011-12.
2. We have heard the parties and perused the material available on record and find that tax effect involved in this appeal is below Rs. 20 Lakhs. The Id. 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 Rule is under challenge or (b) where Board`s order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or (c) where Revenue Audit objections has been accepted by the Department or (d) where the addition relates to undisclosed foreign assets/bank accounts, etc. and by amendment dtd. 20.08.2018 following clauses added or (e) where addition is based on information from external sources like-CBI/ED/DRI/SFIO/GST-DGGI or (f) where prosecution filed by Department is pending in Court.

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 dismissed. However, we may make it clear that the Revenue is at liberty to approach to this Tribunal for recalling this order, if it is comes to the notice of the AO that the tax effect is more than the monetary limit provided under Circular or Revenue`s case is fall within ambit of the exceptions provided in the said Circular.

4. In the result, the appeal of the Revenue stands dismissed.

5. The order pronounced in the open court on 16.10.2018.

Sd/-

(सी.एम.गर्ग)/(C.M. GARG)

न्यायिक सदस्य/JUDICIAL MEMBER

सुरत/ **Surat: दिनांक /Dated : 16 October 2018**

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

Sd/-

(ओ.पी.मीना)/(O.P.MEENA)

लेखा सदस्य/ACCOUNTANT MEMBER

By order

/ / **TRUE COPY** / /

Assistant Registrar, Surat