

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.1515/AHD/2012/SRT
 निर्धारण वर्ष/Assessment Year : 2004-05

The Assistant Commissioner of Income Tax, Circle – 7, Surat.	Vs.	C.B.Suratwala & Sons, 7/4715, Nr. Super Cinema, Station Road, Surat – 395 003. [PAN: AABFC 7000 M]
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

**C.O. No.144/AHD/2012/SRT
 (arising out of ITA No.1515/Ahd/2012/SRT)
 निर्धारण वर्ष/Assessment Year : 2004-05**

C.B.Suratwala & Sons, 7/4715, Nr. Super Cinema, Station Road, Surat – 395 003. [PAN: AABFC 7000 M]	Vs.	The Assistant Commissioner of Income Tax, Circle – 7, Surat.
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से /Assessee by	Shri Timish Mody - CA
राजस्व की ओर से /Revenue by	Shri S.R.Meena - Sr.DR

सुनवाई की तारीख/ Date of hearing:	07.08.2018 & 08.08.2018
उद्घोषणा की तारीख/Pronouncement on	23.08.2018

आदेश /ORDER

PER O.P.MEENA, ACCOUNTANT MEMBER:

1. This appeal filed by the Revenue and Cross Objection by the assessee is directed against the order of learned Commissioner of Income Tax (Appeals)-V, Surat (in short “the CIT (A)”) dated 28.03.2012 pertaining to Assessment Year 2004-05 which in turn has arisen from the order passed by the Assistant Commissioner of Income Tax, Circle-7, Surat (in short “the AO”) dated 29.12.2011 under section 143(3) r.w.s 254 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.

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5. Since, by the earlier part of this order we have dismissed the appeal of the Revenue, therefore, Cross Objection of the assessee becomes infructuous, accordingly we dismiss the same as not pressed.

6. In the result, Cross Objection of the assessee is dismissed as not pressed.

7. Finally, appeal of the Revenue is dismissed and cross objection of the assessee is dismissed as not pressed.

8. The order pronounced in the open court on 23-08-2018.

Sd/-

(सी.एम.गर्ग /C.M. GARG)

न्यायिकसदस्यतथा/JUDICIAL MEMBER

सुरत/ Surat, दिनांक Dated: 23rd Aug, 2018 / S.Gangadhara Rao, Sr.PS

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

By order

Sd/-

(ओ.पी.मीना/O.P.MEENA)

लेखासदस्यकेसमक्ष /ACCOUNTANT MEMBER

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Assistant Registrar, Surat