

आयकरअपीलीयअधिकरणसूरतन्यायपीठ,सूरत
**IN THE INCOME TAX APPELLATE TRIBUNAL,
SURAT BENCH,SURAT**

श्रीसीएमगर्ग, न्यायिकसदस्यएवंश्रीओपीमीना, लेखासदस्यकेसमक्ष
**BEFORE SHRI C.M.GARG, JUDICIAL MEMBER AND
SHRI O.P.MEENA, ACCOUNTANT MEMBER**

आयकरअपीलसं. / ITA No.867/Ahd/2016/SRT

निर्धारणवर्ष/ Assessment Year: 2011-12

Dy. Commissioner of Income Tax,
Central Circle-4,
Surat.

(अपीलार्थी/Appellant)

Vs. Shri Akbar Hanif Khodia,
Modi Faliya, Hathuran,
Taluka-Mangrol,
Surat – 394 125.

[PAN: BYJPK 3786 P]

(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Assessee by

: Shri Rasesh Shah, C.A

प्रत्यर्थीकीओरसे /Revenue by

: Shri S.R. Meena, Sr. D.R

सुनवाईकीतारीख/Date of Hearing

: 09-08-2018

घोषणाकीतारीख /Date of Pronouncement

: 09-08-2018

आदेश /ORDER

PERC.M.GARG, JUDICIAL MEMBER:

This appeal has been filed by the Revenue against the order of Commissioner of Income Tax (Appeals)-4, Surat ('CIT(A)' for short) dated 28.01.2016 for the Assessment Year (A.Y) 2011-12.

2. We have heard the Id. Departmental Representative (DR) 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 theCBDT 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 is dismissed.

Order pronounced in the open court on this day of 09th August, 2018.

Sd/-
(ओपीमीना)
(O.P.MEENA)

लेखासदस्य Accountant Member/

Sd/-
(सीएमगर्ग)
(C.M.GARG)

न्यायिकसदस्य Judicial Member/

सूरत/Surat; दिनांक Dated :09th August, 2018/EDN

आदेश की प्रतिलिपि अग्रहित/Copy of the Order is forwarded to :

1. अपीलार्थी/ The Appellant; 2. प्रत्यर्थी/ The Respondent; 3. आयकर आयुक्त(अपील) / The concerned CIT;
4. The concerned Prl. CIT; 5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत/ DR, ITAT, Surat; 6. गार्डफाईल

/ Guard file.