

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'C' अहमदाबाद ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, AHMEDABAD**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
& SHRI MAHAVIR PRASAD, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 3240/Ahd/2015

(निर्धारण वर्ष / Assessment Year : 2011-12)

DCIT Circle – 1(1)(1), Ahmedabad	बनाम/ Vs.	M/s. Arya Omnitalk Wireless Solutions Pvt. Ltd. C/o. Arvind Mills Ltd., Textile Division, Naroda Road, Ahmedabad - 380025
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAAC05172E		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Lalit P. Jain, Sr.D.R.
प्रत्यर्थी की ओर से / Respondent by :	Ira Kapoor, A.R.

सुनवाई की तारीख / Date of Hearing	19/02/2019
घोषणा की तारीख /Date of Pronouncement	26/02/2019

आदेश/ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the Revenue against the order of the Commissioner of Income Tax (Appeals)-3, Ahmedabad ('CIT(A)' in short), dated 07th September, 2015 arising in the assessment order dated 27.03.2014 passed by the

Assessing Officer (AO) under s. 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2011-12.

2. The grounds of appeal raised by the Revenue read as under:-

- “1. *The CIT(A) has erred in law and on facts in deleting the addition made of Rs.31,10,943/- on account of unutilized CENVAT credit u/s 145A of the Act.*
2. *The CIT(A) has erred in law and on facts in deleting the addition made of disallowance of provision for gratuity and leave encashment for computing Book profit u/s 115JB of the Act.”*

3. At the time of hearing, it was submitted by the Ld.AR for the assessee that appeal filed by the Revenue is hit by recently issued CBDT Circular No.3 of 2018 dated 11/07/2018 revising the previous thresholds pertaining to tax effects. As per aforesaid Circular, all pending appeals filed by Revenue are liable to be dismissed as a measure for reducing litigation where the tax effect does not exceed the prescribed monetary limit which is now revised at Rs.20 Lakhs. In the instant case, the tax effect on the disputed issues raised by the Revenue is stated to be not exceeding Rs.20 lakhs and therefore appeal of the Revenue is required to be dismissed in limine. The AR further pointed out that notwithstanding the aforesaid circular, the quantum appeal has also been decided in favour of the assessee by the ITAT and this penalty appeal of the Revenue does not survive. The AR referred to the decision of the co-ordinate bench in ITA No. 1883/Ahd/2014 dated 02.08.2017 in quantum proceedings for this purpose.

4. The Learned DR for the Revenue fairly admitted the applicability of the CBDT Circular No. 3 of 2018. Accordingly, appeal of the Revenue is dismissed as not maintainable. Secondly,

penalty proceedings do not survive in view of the decision of additions/disallowances in quantum.

5. In the result, the appeal of the Revenue is dismissed.

This Order pronounced in Open Court on 26/02/2019

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER
Ahmedabad: Dated 26/02/2019

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।