

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AHMEDABAD D BENCH, AHMEDABAD**

[Coram: Pramod Kumar VP and Madhumita Roy JM]

ITA No.: 1990/Ahd/ 2017
Assessment year: 2013-14

Indusface Pvt. Ltd.,
A-2-3 Status Plaza,
Opp. Relish Resort,
Near Hero Honda Showroom,
Akshar Chowk,
Vadodaa – 390 007.
[PAN: AABCI 2626 J]

.....Appellant

Vs

**Assistant Commissioner of Income Tax
Circle 1(1)(2), Vadodara**

.....Respondent

Appearances by

S N Soparkar, Milin Mehta, Bandish Soparkar and Parin Shah *for the appellant*
Mahesh Shah and MSA Khan *for the respondent*

Date of concluding the hearing : November 13, 2018
Date of pronouncement : February 8, 2019

O R D E R

Per Pramod Kumar, VP:

1. By way of this appeal, the assessee appellant has challenged correctness of the order dated 27th June 2017, passed by the CIT(A) in the matter of assessment under section 143(3) of the Income Tax Act, 1961, for the assessment year 2013-14.

2. Grievances raised by the appellant are as follows :

1. *The learned Commissioner of Income Tax (Appeals)-1, Vadodara [“the CIT(A)”] erred in fact and in law in charging to tax gains arising on transfer of long term capital asset at the rate applicable to short-term capital gain.*
2. *The learned CIT(A) erred in fact and in law in holding that section 50 instead of section 112 of the Income Tax Act, 1961 (“the Act”) is applicable for determining the rate at which capital gains, arising on transfer of long term capital asset, is chargeable to tax.*

3. *The learned CIT(A) erred in fact and in law in confirming the action of the Assistant Commissioner of Income Tax, Circle 1(1)(2), Vadodara ("the AO") in charging interest u/s. 234B of the Act.*

3. Vide our order of even date in the case of Ashish Tandon, the then Chairman of the Company, we have made certain observations with respect to the nature of transaction which has resulted in the impugned income in the hands of this assessee as also in the case of Ashish Tandon. These observations may have some relevance in the adjudication on this appeal as well. However, as that decision was not available at the point of time when this appeal was heard, we consider it appropriate to remit the matter to the file of the CIT(A) for fresh adjudication in accordance with the law by way of a speaking order on specific contentions raised by the assessee, after giving yet another opportunity of hearing to the assessee.

4. In view of the above discussions and bearing in mind entirety of the case, we remit the matter to the file of the CIT(A) in terms of direction above.

5. In the result, the appeal is allowed for statistical purposes. Pronounced in the open court today on the 8th day of February, 2019.

Sd/-
Madhumita Roy
(Judicial Member)

Sd/-
Pramod Kumar
(Accountant Member)

Ahmedabad, dated the 8th day of February, 2019.

*PBN/**

Copies to:

(1)	<i>The appellant</i>	(2)	<i>The respondent</i>
(3)	<i>CIT</i>	(4)	<i>CIT(A)</i>
(5)	<i>DR</i>	(6)	<i>Guard File</i>

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad