

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'C' अहमदाबाद ।

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

**BEFORE SHRI PRAMOD KUMAR, HON'BLE VICE PRESIDENT
& MS. MADHUMITA ROY, JUDICIAL MEMBER**

I.T.A. No. 2955/AHD/2016

(निर्धारण वर्ष / Assessment Year: 2010-11)

ITO Ward-2, Anand, 2 nd Floor, S.P. Complex, Near Old C.K. Hall, Mayfair Road, Anand - 388001	बनाम/ Vs.	Shri Gaurang Ramanbhai Patel Plot No. 9A-2, G.I.D.C. Estate, Sangeetha Compound, V.U. Nagar, Anand- 388121
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ARV PP3 006 H		
(Appellant/Respondent)	..	(Respondent/Cross Objector)

अपीलार्थी ओर से /Appellant by :	Shri L. P. Jain, Sr. DR.
प्रत्यर्थी की ओर से / Respondent by :	D. K. Parikh, AR

सुनवाई की तारीख / Date of Hearing	29/08/2019
घोषणा की तारीख /Date of Pronouncement	29/08/2019

आदेश/ORDER

PER PRAMOD KUMAR – VICE PRESIDENT:

The captioned appeal has been filed at the instance of the Revenue against the order of the Commissioner of Income Tax (Appeals)-4, Vadodara ('CIT(A)' in short), dated 30.06.2016 arising in the assessment order dated 23.03.2015 passed by the Assessing Officer (AO) under s. 143(3) r.w.s. 147 of the Income Tax Act, 1961 (the Act) in the assessment year 2010-11.

2. The ground of appeal raised by the Revenue reads as under:-

- “1. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in directing the A.O. to delete disallowance u/s. 40A(3) of the Act, without appreciating that the A.O. in the assessment order clearly recorded instances of cash payment exceeding Rs. 20,000/- on a single day.
2. On the facts and circumstances of the case and in law, the Ld. C.I.T. (A) erred in directing the A.O. to delete disallowance u/s. 40(A)3 of the Act, without appreciating that during the course of assessment proceedings, the assessee did not establish business expediency of making payment in cash, in view of provision of section 40(A)3 read with Rule 6DD of I.T. Act.
3. On the facts and circumstances of the case and in law, the Ld. C.I.T. (A) erred in directing the A.O. to delete disallowance u/s. 40(a)(ia) of the Act, without appreciating that the assessee’s act of awarding work of providing vehicles on hire amounted to contract within the meaning of section 194C of the Act the expression work “carriage of goods or passengers by any mode of transport other than by railways”, and without commenting on judicial decisions relied upon by the A.O. in the assessment order.
4. On the facts and circumstances of the case and in law, the Ld. C.I.T. (A) erred in holding that the ratio of Hon’ble Gujarat’s decision in the case of *Siddhi Vinayak Transport vs. CIT* [2013] 362 ITR 72 is applicable to the present case, without appreciating the Ld. CIT (A) in para 3.3.2 of appellate order held “There was undoubtedly sufficient material before the Assessing Officer that provisions of section 40(A)3 and 40(a)(ia) were not complied with particularly when the Assessing Officer has not mentioned about these sections in any details in the body of (original) assessment order.””

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.17 of 2019 dated 08/08/2019 revising the previous thresholds pertaining to tax effects. It is *inter alia* noticed that the CBDT vide Instruction No. F. No. 279/Misc/M-93/2018-ITJ dt. 20/08/2019 has observed that Circular No.17/2019 dated 08/08/2019 relating to enhancement of monetary limits is also applicable to all pending appeals. As per aforesaid Circular read with instructions, 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.50 Lakhs. In the instant case, the tax effect on the

disputed issues raised by the Revenue is stated to be not exceeding Rs.50 lakhs and therefore appeal of the Revenue is required to be dismissed *in limine*.

4. The Learned DR for the Revenue fairly admitted the applicability of the CBDT Circular No. 17 of 2019. Accordingly, appeal of the Revenue is dismissed as not maintainable. However, it will be open to the Revenue to seek restoration of its appeal on showing inapplicability of the aforesaid CBDT Circular in any manner.

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

This Order pronounced in Open Court on 29/08/2019

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

Sd/-
(PRAMOD KUMAR)
VICE PRESIDENT

Ahmedabad: Dated 29/08/2019

TANMAY

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आदेश की प्रतिलिपि अद्येषित / 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 ।