

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

[Coram: Justice P P Bhatt, President, and Pramod Kumar, Vice President]

ITA No. 48/Ahd/2015
Assessment year: 2011-12

**Dy. Commissioner of Income-tax
(Exemptions), Circle-1, Ahmedabad****Appellant**

Vs

Adarsh Foundation**Respondent**
*C/o. SAL Hospital & Medical Institute,
Opp. Doordarshan Tower,
Drive-in-Road, Thaltej,
Ahmedabad – 380054 [AAATA 2111 J]
and 18 others- as per list attached*

Appearances by

L P Jain *for the appellant*

Bandish Soparkar, Sakar Sharma, TP Hemani, GM Thakor and Manish T Shah *for various respondents – as per list attached*

Date of concluding the hearing : August 27, 2019
Date of pronouncement : August 27, 2019

O R D E R

PER BENCH :

This is a bunch of 19 appeals/COs identified by the Registry wherein the tax effect involved by virtue of relief given by the learned CIT(A) in each appeal is less than Rs.50 lakhs. It is pertinent to observe that the Central Board of Direct Taxes (CBDT) has recently issued Circular No. 17/2019 dated 8th August 2019, prohibiting its subordinate authorities not to file appeal before the Tribunal where the tax effect by virtue of relief given by the Commissioners of Income-tax (Appeals) is less than Rs.50 lakhs. These instructions have been made applicable even in the pending appeals. After issuance of the CBDT Circular, Ahmedabad “A” bench of this Tribunal has also identified 628 such appeals wherein the tax effect was less than Rs.50 lakhs in each appeal. The Tribunal vide order dated 14.08.2019 has dismissed all these appeals by observing as under:-

“5. Having considered the rival submissions and having perused the material on record, we do not have slightest of hesitation in holding that the concession extended by the CBDT not only applies to the appeals to be filed in future but it is also equally applicable to the appeals pending for disposal as on now. Our line of reasoning is this. The circular dated 8th August 2019 is not a standalone circular. It is to be read in conjunction with the CBDT circular no 3 of 2018 (and subsequent amendment thereto), and all it does is to replace paragraph nos. 3 and 5 of the said circular. This is evident from the following extracts from the circular dated 8th August 2019:

2. As a step towards further management of litigation. it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly. the table for monetary limits specified in Para 3 of the Circular shall read as follows:

| S.No. | Appeals/SLPs in Income-tax matters | Monetary Limit (Rs.) |
|--------------|---|---------------------------------|
| 1 | Before Appellate Tribunal | 50,00,000 |
| 2 | Before High Court | 1,00,00,000 |
| 3 | Before Supreme Court | 2,00,00,000 |

3. Further, with a view to provide parity in filing of appeals in scenarios where separate order is passed by higher appellate authorities for each assessment year vis-a-vis where composite order for more than one assessment years is passed. para 5 of the circular is substituted by the following para:

“5. The Assessing Officer shall calculate the tax effect separately for every assessment year in respect of the disputed issues in the case of every assessee. If in the case of an assessee, the disputed issues arise in more than one assessment year, appeal can be filed in respect of such assessment year or years in which the tax effect in respect of the disputed issues exceeds the monetary limit specified in para 3. No appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. Further, even in the case of composite order of any High Court or appellate authority which involves more than one assessment year and common issues in more than one assessment year no appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. In case where a composite order/ judgement involves more than one assessee, each assessee shall be dealt with separately”

4. The said modifications shall come into effect from the date of issue of this Circular.

6. Clearly, all other portions of the circular no. 3 of 2018 (*supra*) have remained intact. The portion which has remained intact includes paragraph 13 of the aforesaid circular which is as follows:

13. This Circular will apply to SLPs/ appeals/ cross objections/ references to be filed henceforth in SC/HCs/Tribunal and it shall also apply retrospectively to pending SLPs/ appeals/ cross objections/references. Pending appeals below the specified tax limits in pare 3 above may be withdrawn/ not pressed.

7. In view of the above discussions, we hereby hold that the relaxation in monetary limits for departmental appeals, vide CBDT circular dated 8th August 2019 (*supra*) shall be applicable to the pending appeals in addition to the appeals to be filed henceforth.

8. Learned Commissioner (DR) then submits liberty may kindly be given to point out, upon necessary further verifications, and to seek recall the dismissal of appeals and restoration of the appeals in the cases (i) in which it can be demonstrated that the appeals are covered by the exceptions, and (ii) which are inadvertently included in this bunch of appeals, wherein the tax effect, in terms of the CBDT circular (*supra*), exceeds Rs 50,00,000. None opposes this prayer; we accept the same. We make it clear that the appellants shall be at liberty to point out the cases which are wrongly included in the appeals so summarily dismissed, either owing to wrong computation of tax effect or owing to such cases being covered by the permissible exceptions- or for any other reason, and we will take appropriate remedial steps in this regard.

9. In the light of the above discussions, all the appeals stand dismissed as withdrawn. As the appeals filed by the Revenue are found to be non-maintainable and as all the related cross-objections of the assessee arise only as a result of those appeals and merely support the order of the CIT(A), the cross objections filed by the assessee are also dismissed as infructuous. Ordered, accordingly.

10. As we part with the matter, we must place on record our deep appreciation to our own team which has painstakingly identified all these low tax effect appeals in the long weekend and less than two working days, to the Principal Chief Commissioner of Income Tax Gujarat, as also the learned Departmental Representatives, for his immense help, cooperation and active involvement in speedily disposing of these appeals, and, of course, to the ITAT Bar Association Ahmedabad for their whole hearted cooperation in this special drive. The circular was issued on Thursday the 8th August 2019, and within two working days and the long weekend, today on 14th August 2019, all the appeals stand disposed of. It's only a team effort and whole hearted cooperation of all the stakeholders that can enable us to so speedily implement taxpayer friendly initiatives of the Government of India. The taxpayer relief involved in these appeals, including interest and the other corollaries, is estimated to be well over Rs 350 crores. The lead case before

us is an appeal filed over fifteen years ago by the Income Tax Officer and it deals with an assessment year which pertains to the period over twenty years ago. Yet, the matter had not reached the finality and the revenue's challenge to the relief granted by the Commissioner (Appeals) had remained undecided. That is nothing but prolonged agony of uncertainty to the taxpayers. It is indeed an appreciable goodwill gesture by the Government, for so many taxpayers, on the eve of this Independence Day and offering them freedom from the prolonged mental agony and uncertainty of litigation."

2. Since there is no disparity on facts, the above order is equally applicable on this bunch of appeals. Therefore, respectfully following the order of the Tribunal dated 14.08.2019 (supra), we dismiss all these appeals as not maintainable.

3. The related cross objections, as emanate from the respective appeals, are also taken up for hearing and it is found that these cross-objections are broadly in support of the orders passed by the CIT(A). As all these appeals themselves have been dismissed as not maintainable in view of CBDT Circular, the related cross objections are also dismissed as infructuous.

4. It is, however, made clear that on re-verification at the end of the Assessing Officer it comes out that the tax effect of more than Rs.50 lakhs is being involved in any of the appeals or the appeal falls within the exemption clause of the Circular, then the Revenue will be at liberty to file Miscellaneous Application to recall the Tribunal order in such appeals. The application should be filed within time limit prescribed in the Act.

5. In the result, all the appeals are dismissed as withdrawn and the cross objections are dismissed as infructuous. Pronounced in the open court today on the 27th August, 2019.

Sd/-

Justice P P Bhatt
(President)

Ahmedabad, dated the 27th day of August, 2019

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> |

Sd/-

Pramod Kumar
(Vice President)

By order

True Copy

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AHMEDABAD BENCHES, AHMEDABAD**

| SN | ITA/IT(SS)A No. | Asstt. Year | Name of Appellant | Name of Respondent | PAN | Name of AR- (Shri/Kum/Smt) |
|-------------------|-----------------|-------------|---|---------------------------------|------------|-------------------------------|
| Annexure-1 | | | | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1 | ITA 48/A/15 | 2011-12 | Dy CIT (Exemptions)Circle-1, Ahmedabad | Adarsh Foundation | AAATA2111J | Bandish Soparkar |
| 2 | ITA 1335/A/18 | 2012-13 | ITA Ward-3(3)(10), Ahmedabad | Haresh Dahyalal Modi HUF | AADHH4365N | - |
| 3 | ITA 621/A/18 | 2014-15 | DCIT Cir 2(1)(1), Baroda | Sairang Estate Pvt Ltd | AABCB2571K | Sakar Sharma |
| 4 | ITA 1096/A/18 | 2007-08 | ACIT. Circle-2(1)(2), Ahmedabad | Jupiter Corporate Services Ltd | AAACJ5265F | TP Hemani |
| 5 | CO 84/A/19 | 2007-08 | Jupiter Corporate Services Ltd | ACIT. Circle-2(1)(2), Ahmedabad | AAACJ5265F | TP Hemani |
| 6 | ITA 1097/A/18 | 2008-09 | ACIT. Circle-2(1)(2), Ahmedabad | Jupiter Corporate Services Ltd | AAACJ5265F | TP Hemani |
| 7 | CO 85/A/19 | 2008-09 | Jupiter Corporate Services Ltd | ACIT. Circle-2(1)(2), Ahmedabad | AAACJ5265F | TP Hemani |
| 8 | ITA 1050/A/18 | 2009-10 | DCIT Cent Cir 1(3), Ahmedabad | Ashish Prafulbhai Patel | ACTPP0045R | GM Thakor |
| 9 | CO 116/A/19 | 2009-10 | Ashish Prafulbhai Patel | DCIT Cent Cir 1(3), Ahmedabad | ACTPP0045R | GM Thakor |
| 10 | ITA 1058/A/18 | 2012-13 | ITA Ward-3(1)(5), Vadodara | Pritesh Mahendra Shah | APBPS4922D | |
| 11 | ITA 1061/A/18 | 2014-15 | JCIT (OSD) Cent Cir-2, Vadodara | Salil S Dalal | ABOPD1859R | |
| 12 | ITA 1062/A/18 | 2013-14 | DCIT Cent Cir -3, Vadodara | Rajeshbhai D Prajapati | AGRPP8517E | Manish T Shah |
| 13 | ITA 1065/A/18 | 2013-14 | DCIT Cent Cir -1, Vadodara | Lotus Enterprise | AAEFL2145H | GM Thakor |
| 14 | ITA 1066/A/18 | 2014-15 | DCIT Cent Cir -1, Vadodara | Lotus Enterprise | AAEFL2145H | GM Thakor |
| 15 | ITA 1067/A/18 | 2009-10 | DY CIT-Mehasana Cir-Mehasana | Zirconia Cera Tech Glazes | AAAFZ3640D | TP Hemani |
| 16 | ITA 1068/A/18 | 2011-12 | ITA Ward-2, Gandhinagar | Krushnasinh Jivansinh Vaghela | ABDPV1792Q | |
| 17 | ITA 2281/A/18 | 2015-16 | DCIT Circle-3(3), Ahmedabad | Jaiprakash N Khanchandani | ACVPK0391D | |
| 18 | ITA 27/A/18 | 2014-15 | ITA Ward-3(2)(1), Ahmedabad | Dilipbhai Bhurabhai Barad | ANYPB0201D | |
| 19 | ITA 485/A/19 | 2015-16 | ITO S.K Ward-1, Himatnagar | Nareshkumar Chhaganbhai Patel | ALPPP7112A | |

Sd/-
Pramod Kumar
(Vice President)

Sd/-
Justice P P Bhatt
(President)