

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद /

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD - BENCH 'D'**

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**आयकर अपील सं./ ITA No.1587 and 1702/Ahd/2016
निर्धारण वर्ष/Asstt. Year: 2011-2012 and 2013-14**

DCIT, Cent.Cir.1(2) Ahmedabad.	Vs.	M/s.B.T. Corporation B.T. House Nr. Police Station Pacnhvati Residency Kalol, Dist.Gandhiangar PAN : AAIFB 5811 A.
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अपीलार्थी (Appellant)	प्रत्यर्थी (Respondent)
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Assessee by :	Shri S.N. Soparkar, AR
Revenue by :	Shri Vinod Tanwani, Sr.DR

सुनवाई की तारीख/Date of Hearing : 27/08/2019

घोषणा की तारीख/Date of Pronouncement: 11/09/2019

आदेश/ORDER

PER RAJPAL YADAV, JUDICIAL MEMBER:

Present two appeals are directed at the instance of the Revenue against separate orders of the Id.CIT(A) dated 21.3.2016 passed for Asstt.Year 2011-12 and 2013-14.

2. The Revenue has pleaded that the Id.CIT(A) has erred in deleting the addition of Rs.1,24,17,161/- in the Asstt.Year 2011-12 which was added by the AO as estimated profit on accounted sales. Similarly, in the Asstt.Year 2013-14, the AO has worked out notional profit of Rs.2,02,97,410/- on alleged unaccounted sales. The Id.counsel for the

assessee at the very outset submitted that in the Asstt.Year 2013-14, the AO has worked out the profit alleged to have been earned by the assessee on accounted sales by of Rs.2,02,97,410/-, but since the assessee has disclosed income of Rs.2.50 crores, therefore, he did not make any separate addition. Thus, according to him, there is no tax implication by the alleged deletion of addition at end of the CIT(A) and as such appeal of the Revenue in both the years are not maintainable because tax effect by virtue of relief given by the Id.CIT(A) is less than Rs.50 lakhs.

3. On due consideration of the above factum of the case, we find that on 8.8.2019 the CBDT has issued Instructions bearing No. 17 of 2019 by which it has modified Circular No.3 of 2018 dated 11.07.2018 by enhancing the monetary limit for filing appeal by the Revenue before the Tribunal from Rs.20 lakhs to Rs.50 lakhs. In other words, by virtue of this latest modification of the circular dated 8.8.2019, the CBDT has prohibited its subordinate authorities from filing of the appeal before the Tribunal against the order of the CIT(A) where the tax effect by virtue of the relief given by the CIT(A) is less than Rs.50 lakhs. The instructions have been made applicable with retrospective effect, meaning thereby, these instructions are applicable on pending appeals also. In the present cases, "tax effect" on the total income assessed minus the tax that would have been chargeable had such total income been reduced by the amount of income in respect of the issue against which appeal is filed, is less than Rs.50 lakhs. Thus, keeping in view the above CBDT circular and provisions of section 268A of the Income Tax Act, we are of the view that the present appeal of the Revenue deserves to be dismissed. It is accordingly dismissed.

4. However, it is observed that in case on re-verification at the end of the AO it can be demonstrated that the tax effect is more, or

Revenue's case falls within the ambit of exceptions provided in the Circular, then the Department will be at liberty to approach the Tribunal for recall of this order relatable to such cases. Such application should be filed within the time period prescribed in the Act. In view of the above, the appeal of the Revenue is dismissed due to low tax effect.

5. In the result, appeal of the Revenue is dismissed due to low tax effect.

Order pronounced in the Court on 11thSept., 2019 at Ahmedabad.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER