

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**

**ITA No.1830/AHD/2013**

**निर्धारण वर्ष/ Asstt.Year: 2009-10**

ITO, Ward-9(1) Ahmedabad.	Vs.	M/s.NCC-MSEKL(JV) 2 <sup>nd</sup> Floor, MSK House Nr. Kanshiram Bhavan Panjara Pole, Ambawadi Ahmedabad 380 015. PAN : AAAAN 4143 J
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<b>(Applicant)</b>		<b>(Responent)</b>
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Revenue by :	Sonia Kumar, Sr.DR
Assessee by :	Shri Parin Shah, AR

सुनवाई की तारीख/Date of Hearing : 29/08/2019

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

**आदेश/O R D E R**

**PER RAJPAL YADAV, JUDICIAL MEMBER:**

Revenue is in appeal before the Tribunal against the order of the Id.CIT(A)-XV, Ahmedabad dated 21.3.2013 passed for the assessment year 2009-10.

2. Grievance of the Revenue is that the Id.CIT(A) has erred in granting deduction to the assessee under section 80IA(4) of the Income Tax Act, 1961.

3. The Id.counsel for the assessee at the outset submitted that disputed amount is Rs.73,99,678/-. This addition has been deleted by the Id.CIT(A). Tax effect on the disputed addition would be less than Rs.50 lakhs. He submitted that by virtue of recent CBDT Circular No.17 of 2019 dated 8.8.2019, Department has been instructed not to

file appeal before the Tribunal where tax effect is below Rs.50 lakhs. This instruction is applicable to the pending cases also. Therefore, the present appeal of the Revenue is liable to be dismissed at the threshold. Per contra, the Id.DR did not dispute applicability of the recent CBDT circular and left to the Tribunal to pass appropriate order in the matter.

4. After hearing both the sides and after perusal of the above CBDT Instruction, we are of the view that the present appeal of the Revenue falls within the purview of the CBDT Instruction cited (supra). It is not disputed by the Revenue that tax effect on the disputed addition is more than Rs.50 lakhs, and therefore, 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 dismissed.

However, it is observed that in case on 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. 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 11<sup>th</sup> September, 2019 at Ahmedabad.**

**Sd/-  
(AMARJIT SINGH)  
ACCOUNTANT MEMBER**

**Sd/-  
(RAJPAL YADAV)  
JUDICIAL MEMBER**

Ahmedabad; Dated 11/09/2019