

आयकर अपील[य अधकरण, अहमदाबाद ँयायपीठ
IN THE INCOME TAX APPELLATE TRIBUNAL,
“C” BENCH, AHMEDABAD
BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER
AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER

अपील सं./ITA No.904/Ahd/2016

जधरण वष/Asstt. Year:2010-2011

D.C.I.T, Circle-1(1)(1), Ahmedabad	Vs.	M/s. Anil Bioplus Ltd., Anil Starch Premises, Anil Road, Naroda, Ahmedabad-380015. PAN : AABCA6331J
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(Applicant)	(Responent)
Revenue by :	Shri L.P. Jain, Sr. D.R
Assessee by :	None

सुनवाई क तारख/Date of Hearing : 22/08/2019

घोषणा क तारख /Date of Pronouncement: 01/10/2019

आदेश/O R D E R

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The captioned appeal has been filed at the instance of the Revenue against the order of Learned Commissioner of Income Tax(Appeals)-1, Ahmedabad,(in short Ld.CIT(A)) dated 27/01/2016 arising in the matter of assessment order passed u/s.143(3) of the Income-tax Act 1961, (here-in-after referred to as ‘the Act’) dated 30/03/2013 relevant to Assessment Year 2010-2011.

2. The solitary grievance of Revenue is that Ld. CIT(A) erred in law allowing the deduction under section 80JJA of the Act amounting to Rs. 1,30,95,557.00 only.

3. After going through the grounds of appeal and the impugned orders of the Revenue authorities below, a query was raised by the Bench as to applicability and maintainability of the appeal filed by the Revenue in view of recent CBDT Circular No. 17/2019 dated 08/08/2019 restricting the filing of the appeal by the Revenue where the tax effect is below Rs. 50 lakhs. In reply to it the Id. DR did not dispute the same and left the issue at the discretion of the Tribunal with the pray to decided the same by law.

4. We find that the appeal of the Revenue was heard on 22/08/2019. On 8/08/2019 the CBDT has issued Instructions bearing No. 17 of 2019 under file No. 279/ Misc. 142/2007-ITJ(PT) r.w. circular No. 3/2018 dated 11/07/2018 prohibiting its subordinate authorities from the filing of the appeal to the Tribunal against the order of the Id. CIT(A) where the tax effect by virtue of the relief given by the Id. CIT(A) is less than Rs. 50 lakhs. The instructions are applicable with retrospective effect, meaning thereby, these instructions are applicable on pending appeals also as held by this Tribunal in the case of ITO Vs. Dinesh Madhaval Patel & others in ITA 1398/AHD/2004 for the AY 1998-99 vide order dated 14-08-2019. In the present case, "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. Further, the case of the Revenue does not fall within the ambit of exceptions provided in the Circular. 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.

However, it is observed that in the case on re-verification at the end of the AO it comes to the notice 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 the recall of this order. Such an application should be filed within the period prescribed under the Act. In view of the above, the appeal of the Revenue is dismissed due to low tax effect.

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

Order pronounced in the Court on 01/10/2019 at Ahmedabad.

**-Sd-
(MAHAVIR PRASAD)
JUDICIAL MEMBER**

(True Copy)

Ahmedabad; Dated 01/10/2019
Manish

**-Sd-
(WASEEM AHMED)
ACCOUNTANT MEMBER**