

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद ।

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD - BENCH 'B'

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

ITA No.979/AHD/2014

With

CO No.206/Ahd/2014

निर्धारण वर्ष/ Asstt.Year: 2004-2005

DCIT (OSD) Cir.8, Ahmedabad.	Vs.	M/s.Torrent Power Ltd. Torrent House Off. Ashram Road Ahmedabad 380 009. PAN : AACCT 0294 J
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(Applicant)		(Responent)
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Revenue by :	Shri Mudit Nagpal, Sr.DR
Assessee by :	Smt.Urvashi Sodhan, AR

सुनवाई की तारीख/Date of Hearing : 15/10/2019

घोषणा की तारीख /Date of Pronouncement: 15/10/2019

आदेश/O R D E R

PER RAJPAL YADAV, JUDICIAL MEMBER:

Revenue is in appeal before the Tribunal against order of Id.CIT(A)-XIV, Ahmedabad dated 24.1.2014 passed for the assessment year 2004-05.

2. The Revenue is aggrieved by the action of the Id.CIT(A) in deleting addition made on account of disallowance of depreciation on premium paid in respect of leasehold land.

3. At the outset, the Id.counsel for the assessee submitted that the appeal of the Revenue is liable to be dismissed on the ground that the tax effect involved in the appeal is below Rs.50 lakhs, and therefore, by virtue of latest CBDT Instruction No.17 of 2019 dated 8.8.2019, vide which Department has been instructed not to file appeal before the Tribunal where tax effect is below Rs.50 lakhs. When we confronted the same to the

ld.DR, he did not dispute same and left to the Tribunal to pass appropriate order in the matter.

4. In view of the above, we are of the view that the present appeal of the Revenue falls within the purview of the CBDT Instruction cited (supra) 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 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. 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. As far as the CO of the assessee is concerned, the assessee has pleaded that the ld.CIT(A) has erred in rejecting its alternative contention. Since, we have dismissed appeal of the Revenue, therefore, there is no necessity to go into the alternative contention of the assessee, which has been decided against it. However, we observe that with the dismissal of the CO in the present year will not cause and prejudice for the assessee for taking this very alternative arguments in some other assessment year, if needs to be assigned. With the above observation, CO of the assessee stands dismissed.

6. In the result, appeal of the Revenue is dismissed due to low tax effect. CO of the assessee, both are dismissed due to low tax effect.

Order pronounced in the Court on 15th October, 2019 at Ahmedabad.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER

Ahmedabad; Dated 15/10/2019