

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "ए" अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD

BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER AND
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 894/Ahd/2018

निर्धारण वर्ष/ Assessment Year : 2006-07

The Deputy Commissioner of Income-tax, Circle 2(1)(1), Ahmedabad	Vs	M/s. Hitachi Home & Life Solutions (India) Limited, 9 th Floor, Abhijeet Building, Mithakhali Six Roads, Mithakhali, Navrangpura, Ahmedabad-380006 PAN : AABCA 2392 K
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri Rajdeep Singh, Sr DR
Revenue by :		S/Shri PM Mehta & Gulab Thakore, ARs

Date of Hearing : 10/10/2019
Date of Pronouncement in Court : 10/10/2019

आदेश/ORDER

PER RAJPAL YADAV, JUDICIAL MEMBER:

The Revenue is in appeal before the Tribunal against the order of the learned Commissioner of Income-tax (Appeals)-10, Ahmedabad dated 30.01.2018 passed for Assessment Year 2006-07.

2. Grievances raised by the Assessing Officer are as follows:

"1. The Ld.CIT(A) erred in law by holding that the said mistake is not a mistake apparent from record coming under the purview of Section 154 of IT Act.

2. The Ld. CIT(A) has erred in law and on facts in holding that the lower of aggregate of business loss or unabsorbed depreciation over the years is to be considered for reduction out of book profit and not year wise.

3. *The Ld. CIT(A) has erred in law in not considering the Board Circular No. 495 dated 22.09.1987."*

3. When this appeal was called out for hearing, learned counsel for the assessee submitted that the present appeal of the Revenue needs to be dismissed on account of low tax effect in view of the recent CBDT Circular No. 17 of 2019 dated 08.08.2019 whereby the monetary limits for filing the appeal by the Revenue before the Tribunal was enhanced from Rs.20 lakhs to Rs.50 lakhs. This instruction is applicable to the pending cases also. Learned Counsel for the assessee also submits that in the present case the tax effect is Rs.43,83,037/-, as per the working placed on record, which is below the prescribed limit of Rs.50 lakhs. Therefore, the present appeal of the Revenue is liable to be dismissed as non-maintainable as held by this Tribunal in the case of ITO Vs. Dinesh Madhavlal Patel in ITA No.1398/Ahd/2004 for AY 1998-99 vide a consolidated order dated 14.08.2019.

4. The learned Departmental Representative fairly admitted that the tax effect involved in this appeal is less than the limit prescribed by the aforesaid CBDT Circular.

5. We have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of applicable legal position. As learned counsel rightly contends, this appeal of the Revenue is no longer maintainable in view of the recent CBDT Circular No. 17 of 2019 dated 08.08.2019. The mandatory limit for cases in which Revenue can challenge the relief granted by the CIT(A) now stands enhanced to Rs.50 lakhs. This concession granted by the Central Board of Direct Taxes (CBDT) is retrospective in effect inasmuch as it applies to all pending appeals as well. In view of the above position, the appeal of the Revenue is no longer maintainable and must be dismissed as such.

6. 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 the appeal 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. The application should be filed within time limit prescribed in the Act.

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

Order pronounced in the Court on 10th October, 2019 at Ahmedabad.

Sd/-

**(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER**

Ahmedabad; Dated 10/10/2019

By T., Sr. PS

Sd/-

**(RAJPAL YADAV)
JUDICIAL MEMBER**

आदेश की प्रतिलिपि बरौचित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

TRUE COPY

उपसहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad