

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AHMEDABAD BENCH 'C', AHMEDABAD**

[Coram: Justice P P Bhatt, President, and Pramod Kumar, Vice President]

ITA No. 850/Ahd/2016
Assessment year: 2012-13

Income Tax OfficerAppellant
Ward 1(1)(4), Ahmedabad

Vs

Dashrath Investment Pvt LtdRespondent
*Popular Park, Nr. Ashwamegh Bungalows,
B/h. Parul Flats, 132 Feet Ring Road,
Ahmedabad [PAN : AAACD 6559 J]*

C.O. No.65/Ahd/2016
(ITA No.850/Ahd/2016)
Assessment year: 2012-13

Dashrath Investment Pvt LtdAppellant
*Popular Park, Nr. Ashwamegh Bungalows,
B/h. Parul Flats, 132 Feet Ring Road,
Ahmedabad [PAN : AAACD 6559 J]*

Vs

Income Tax OfficerRespondent
Ward 1(1)(4), Ahmedabad

Appearances by

LP Jain *for the Revenue*
Nupur Shah, *for the assessee*

Date of concluding the hearing : August 05, 2019
Date of pronouncement : October 14, 2019

O R D E R

PER PRAMOD KUMAR, VP :

1. By way of this appeal, the Assessing Officer has challenged correctness of the order dated 25th January 2016, passed by the learned CIT(A)-1, Ahmedabad for the assessment year 2012-13. The assessee has also filed its Cross Objection.

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

“1. The ld. CIT(A) has erred on facts and in law, in deleting the addition of Rs.5,99,150/- made by the AO in view of Explanation-3 to Section 41(1) of the I.T. Act.

2. The ld. CIT(A) has erred in law and on facts, in deleting the addition in respect of deemed dividend u/s 2(22)(e) of Rs.60,18,615/-”

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. 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.

8. Coming to the Cross Objection filed by the assessee, as the Cross Objection filed by the assessee merely supports the order of the learned CIT(A), the Cross objection is thus dismissed as infructuous.

9. In the result, appeal filed by the Revenue and Cross Objection filed by the assessee, both are dismissed. Pronounced in the open court today on the 14th October, 2019.

Sd/-

Justice P P Bhatt
(President)

Ahmedabad, dated the 14th day of October, 2019

Copies to:

(1) *The appellant*
(3) *CIT*
(5) *DR*

(2) *The respondent*
(4) *CIT(A)*
(6) *Guard File*

Sd/

Pramod Kumar
(Vice President)

By order

True Copy

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad