

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

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

आयकर अपील सं./ ITA No. 129/Ahd/2018

निर्धारण वर्ष/Assessment Year: 2014-15

Assistant Commissioner of Income-tax, Circle 2(1)(2), Vadodara	Vs.	M/s. Pratham Realty Pvt Ltd, 1 st Floor, Pratham, Iskon Temple Road, Gotri, Baroda [PAN : AACCP 4084 A]
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Revenue by :		Shri Vidhyut Trivedi, Sr DR
Assessee by :		Shri Nirmitt Mehta, AR

सुनवाई की तारीख/Date of Hearing : 23/10/2019

घोषणा की तारीख /Date of Pronouncement: 13/11/2019

आदेश/O R D E R

PER RAJPAL YADAV, JUDICIAL MEMBER:

The Revenue is in appeal before the Tribunal against the order of the learned Commissioner of Income-tax (Appeals)-2, Vadodara dated 30.10.2017 passed for Assessment Year 2014-15.

2. The grounds taken by the Revenue are as follows:-

"1.1 That in the facts and circumstances of the case, and in law, the Ld. C.I.T. (A) erred in deleting disallowance of interest expenditure u/s., 36(1)(iii) of the Act, without appreciating that the assessee had utilized interest bearing funds received from M/s. Pratham Properties for advancing interest free loan to M/s Aspire Confra Pvt. Ltd.

1.2 That in the facts and circumstances of the case, and in law, the Ld. C.I.T. (A) erred in deleting disallowance of interest expenditure u/s. 36(1)(iii) of the Act, without appreciating that there was a direct nexus between the Interest bearing funds & Interest free outflow as the assessee on the one hand had paid interest to M/s. Pratham Properties for loan/advance received, but did not charge interest on loan advanced to M/s. Aspire Confra Pvt. Ltd."

3. When this appeal was called out for hearing, learned counsel for the assessee submitted that the 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 the 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, the present 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 filed by the Revenue is no longer maintainable and is 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 13th November 2019 at Ahmedabad.

Sd/-

Sd/-

(AMARJIT SINGH)
ACCOUNTANT MEMBER
Ahmedabad; Dated 13/11/2019

(RAJPAL YADAV)
JUDICIAL MEMBER

By T. S. P.

आदेश की प्रतिलिपि अग्रहित/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

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