

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'डी' अहमदाबाद।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"D" BENCH, AHMEDABAD

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

आयकर अपील सं./ ITA No. 1034/Ahd/2016

निर्धारण वर्ष/Assessment Year: 2010-11

Deputy Commissioner of Income-tax, Circle 3 (1), Baroda	Vs.	Shri Pawankumar M. Sanghvi, Prop. of M/s. Ravi Steel, Narsingh Estate, Wadi-Yamuna Mill Road, Pratap Nagar, Dist: Baroda 390004 PAN : AGIPS 3322 F
<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/ (Respondent)</b>
Revenue by :		Shri Vinod Tanwani, Sr DR
Assessee by :		Shri PD Shah, AR

सुनवाई की तारीख/Date of Hearing : 24/10/2019

घोषणा की तारीख /Date of Pronouncement: 15/11/2019

**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)-4, Vadodara dated 18.12.2015 passed for Assessment Year 2010-11.

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

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT (Appeals) erred in deleting the addition of Rs.1,44,54,654/- on account of bogus accommodation entry of Long Term Capital Gain from M/s Alliance Intermediaries & Network Pot. Ltd. and M/s. Goldstar Finvest Pot.Ltd.

2. The Ld. CIT(A) erred in not appreciating the fact that M/s Alliance Intermediaries & Network Pot. Ltd and M/s. Goldstar Finvest Pot.Ltd have themselves deposed before Hon'ble ITAT that they were entry provider, and the ITAT Mumbai by their order in ITAT No. 4625/Mum/2005 & 5000/Mum/2005 for the A.Y.2002-03 have decided to charge 0.15% of total amount of entries as income of these two concerns.

3. *The Ld. CIT(A) failed in not appreciating the fact that the assessee could not submit De-Mat account in respect of shares Prime Capital and Zen Shavings, which is an essential to prove the share holding rather the banking channel so relied upon by the Ld. CIT(A).*

4. *The Ld. CIT(A) also failed in not appreciating the fact that during the year these companies are not stock brokers as such they have no right to issue bills for such transaction, as they were expelled from trading membership of the stock exchange w.e.f. 21.06.2004."*

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 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 15<sup>th</sup> November 2019 at Ahmedabad.**

Sd/-

**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**  
Ahmedabad; Dated 15/11/2019

*Signed, Sd. PS*

Sd/-

**(RAJPAL YADAV)**  
**JUDICIAL MEMBER**

**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.

TRUE COPY

आदेशानुसार/ BY ORDER,

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