

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ 'B' अहमदाबाद ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, AHMEDABAD**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
& Ms. MADHUMITA ROY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 1812/Ahd/2018

(निर्धारण वर्ष / Assessment Year: 2015-16)

DCIT(Exemp.) Circle-2, Ahmedabad 2 nd Floor, Nature View Building, Opp. H.K. House, Ashram Road, Ahmedabad- 380009	बनाम/ Vs.	Nandesari Industries Association Plot No. 134/1, Opp. Shopping Centre, Nandesari
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAA TN6 770 E		
(अपीलार्थी/Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/Appellant by :	Shri Mudit Nagpal, Sr. DR
प्रत्यर्थीकीओरसे / Respondent by:	Shri Ankit Chokshi, AR

सुनवाईकीतारीख/Date of Hearing	22/10/2019
घोषणाकीतारीख /Date of Pronouncement	27/11/2019

आदेश/ORDER

PER Ms. MADHUMITA ROY - JM:

The appeal filed by the Revenue for A.Y. 2015-16, arise from order of the CIT(A)-9, Ahmedabad dated 15.06.2018, in proceedings under section 143(3) of the Income Tax Act, 1961; in short "the Act".

2. The ground of appeal raised by the Revenue reads as under:-

"1. The Ld. CIT(A) has erred in the law and facts in allowing the benefit of exemptions u/s. 11 without considering the fact that the assessee is involved in widespread commercial activities in nature of business and the activity of the assessee is covered under first and second proviso to sec. 2(15) of the Act.

2. The Ld. CIT(A) has erred in the law on facts in deleting the addition of Rs. 1,05,70,846/- made on account of disallowance of ECP contribution expenses without appreciating the fact that once the proviso to section 2(15) is applicable, the benefit of section 11 and 12 cannot allowed further.

3. The revenue craves over leave to ad, alter, amend, modify, substitute, delete and/or any Grounds of Appeal on or before the final hearing, in necessity so arises.”

3. At the time of hearing, it was submitted by the Ld.AR for the assessee that appeal filed by the Revenue is hit by recently issued CBDT Circular No.17 of 2019 dated 08/08/2019 revising the previous thresholds pertaining to tax effects. As per aforesaid Circular, all pending appeals filed by Revenue are liable to be dismissed as a measure for reducing litigation where the tax effect does not exceed the prescribed monetary limit which is now revised at Rs.50 Lakhs. In the instant case, the tax effect on the disputed issues raised by the Revenue is stated to be not exceeding Rs.50 lakhs and therefore appeal of the Revenue is required to be dismissed *in limine*.

4. The Learned DR for the Revenue fairly admitted the applicability of the CBDT Circular No. 17 of 2019. Accordingly, appeal of the Revenue is dismissed as not maintainable. However, it will be open to the Revenue to seek restoration of its appeal on showing inapplicability of the aforesaid CBDT Circular in any manner.

5. In the result, the appeal of the Revenue is dismissed.

This Order pronounced in Open Court on	27/11/2019
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Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

Ahmedabad: Dated 27/11/2019

TANMAY

TRUE COPY

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।