

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD BENCH

**Before: Shri Amarjit Singh, Accountant Member
And Ms. Madhumita Roy, Judicial Member**

**ITA No. 1548/Ahd/2016
Assessment Year 2009-10**

The DCIT, Circle-1(1)(2), Ahmedabad (Appellant)	Vs	M/s. Duravit India Pvt. Ltd. 61, Titanium, Nr. Praladnagar Auda Garden, Praladnagar, Ahmedabad-380015 PAN:AACCD3485F (Respondent)
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**Revenue by: Shri Dilip Kumar, Sr. D.R.
Assessee by: Shri S.N. Soparkar, A.R.**

Date of hearing : 14-11-2019
Date of pronouncement : 20-11-2019

आदेश/ORDER

PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-

This revenue appeal for A.Y. 2009-10, arises from order of the CIT(A)-1, Ahmedabad dated 29-03-2016, in proceedings under section 143(3) r.w.s. 144C of the Income Tax Act, 1961; in short the Act.

2. At the outset, after going through the grounds of appeal and the impugned orders of the Revenue authorities below, a query was raised by the Bench as to applicability and maintainability of the appeal filed by the Revenue in view of recent CBDT Circular No. 17/2019 dated 08-08-2019 restricting the filing of the appeal by the Revenue where the tax effect is below Rs.50 lakhs, the ld. DR did not dispute the same and submitted that the issue is left to the Tribunal to be decided in accordance with law.

3. We find that the appeal of the Revenue is presented on 9.6.2016. On 8.8.2019 the CBDT has issued Instructions bearing No. 17 of 2019 under file No. F. No. F. No. 279/Misc. 142/2007-ITJ(Pt.) prohibiting its subordinate authorities from filing of the appeal to the Tribunal against the order of the CIT(A) where the tax effect by virtue of the relief given by the CIT(A) is less than Rs.50 lakhs. The instructions have been made applicable with retrospective effect, meaning thereby, these instructions are applicable on pending appeals also. In the present case, tax effect on the total income assessed minus the tax that would have been chargeable had such total income been reduced by the amount of income in respect of the issue against which appeal is filed, is less than Rs.50 lakhs. Further, the case of the Revenue does not fall within the ambit of exceptions provided in the Circular. Thus, keeping in view the above CBDT circular and provisions of section 268A of the Income Tax Act, we are of the view that the present appeal of the Revenue deserves to be dismissed. It is accordingly dismissed.

However, it is observed that in case on re-verification at the end of the AO it comes to the notice that the tax effect is more or Revenue's case falls within the ambit of exceptions provided in the Circular, then the Department will be at liberty to approach the Tribunal for recall of this order. Such application should be filed

within the time period prescribed in the Act. In view of the above, the appeal of the Revenue is dismissed due to low tax effect.

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

Order pronounced in the open court on 20-11-2019

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER
Ahmedabad : Dated 20/11/2019

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

आदेश क०० तालम अ० षत / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलालय आधिकरण,
अहमदाबाद