

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

**[Coram: Justice P P Bhatt, President, and Amarjit Singh, Accountant Member]**

ITA No. 1217/Ahd/2018  
Assessment year: 2014-15

**The Dy. Commissioner of Income-tax** .....**Appellant**  
*Anand Circle, Anand*

**Vs**

**M/s. Optics India Equipments Pvt Ltd** .....**Respondent**  
*2116, Hari Krupa, Naya Padkar Lane,  
MG Road, Anand – 388 001  
[PAN : AABCO 5728 M]*

**Appearances by**

**Shri Vinod Tanwani, Sr DR, for the Revenue**  
**None, for the assessee**

Date of concluding the hearing : January 29, 2020  
Date of pronouncement : January 30, 2020

**O R D E R**

**PER JUSTICE P P BHATT, PRESIDENT :**

1. By way of this appeal, the Assessing Officer has challenged correctness of the order dated 18<sup>th</sup> January 2018, passed by the learned CIT(A)-4, Vadodara for the assessment year 2014-15.

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

*“1.1 That in the facts and circumstances of the case, and in law, the ld. CIT(A) erred in deleting the addition disallowing depreciation on goodwill without considering the facts of the case.*

*1.2 That in the facts and circumstances of the case, and in law, the Id. CIT(A) erred in deleting the addition disallowing depreciation on goodwill without considering that the assessee had failed to controvert the findings of the AO, and failed to substantiate the valuation of goodwill claimed to have arisen from the purchase of two sister concerns.*

1.3 That in the facts and circumstances of the case, and in law, the Id. CIT(A) erred in deleting the addition disallowing depreciation on goodwill without considering that the addition is supported by the decision of the Hon'ble ITAT in United Breweries (TS-553-ITAT-2016(Bang.) (ITA No.722, 801 & 1065/Bang/2014 dated 30.9.16.

1.4 That in the facts and circumstances of the case, and in law, the Id. CIT(A) erred in deleting the addition disallowing depreciation on goodwill without considering that the facts in this case were different from the facts in Smifs Securities (348 ITR 302), as the assessee had failed to substantiate the valuation of goodwill.

1.5 That in the facts and circumstances of the case, and in law, the Id. CIT(A) erred in deleting the addition disallowing depreciation on goodwill on the basis of the decision in AY 2013-14, without considering the facts brought on record in the year under consideration, and without considering that the principle of consistency does not apply in such a situation, as explained by the Hon'ble High Court Krishak Bharati Cooperative Ltd.(210 Taxman 123)."

3. At the time of hearing before us, none appeared on behalf of the assessee; however, since the issue in question is covered by CBDT Circular No. 17 of 2019 dated 08.08.2019, this appeal is decided *ex-parte* qua the assessee, after hearing the learned Departmental Representative and perusing the material available on record.

4. Having heard the learned Departmental Representative and having perused the material on record, we find that this appeal of the Revenue is no longer maintainable in view of the 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 is dismissed as such.

5. It is, however, made clear that on re-verification at the end of the Assessing Officer if 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.

6. In the result, appeal of the Revenue is dismissed due to low tax effect. Pronounced in the open court today on the 30<sup>th</sup> January, 2020.

*Sd/-*

**Amarjit Singh**  
(Accountant Member)

**Ahmedabad, dated the 30<sup>th</sup> day of January, 2020**

*Bt\**

Copies to:                   (1)    *The appellant*                   (2)    *The respondent*  
                                  (3)    *CIT*                                       (4)    *CIT(A)*  
                                  (5)    *DR*                                       (6)    *Guard File*

*Sd/-*

**Justice P P Bhatt**  
(President)

*By order*

*True Copy*

*Assistant Registrar*  
*Income Tax Appellate Tribunal*  
*Ahmedabad benches, Ahmedabad*