

IN THE INCOME TAX APPELLATE TRIBUNAL  
“F” BENCH, MUMBAI  
BEFORE SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER &  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 6699/Mum/2017  
(A.Y: 2011-12)

ACIT – 17(3) 1 <sup>st</sup> Floor, Aayakar Bhavan, MK Mark, Mumbai – 400 020.	Vs.	Shri Vikram Deokisan Sarda, G-3, Manek Mahal, 90, Veer Nariman Road, Road, Churchgate, Mumbai – 400020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ABLPS4487P		
Appellant	..	Respondent

CO. No. 358/Mum/2018  
(Arising out of ITA No. 6699/Mum/2017  
A.Y: 2011-12)

Appellant / Respondent by :	Smt. Usha Gaikwad. DR
Respondent / Appellant by :	Shri. Mayur Kisnadwala. AR

सुनवाई की तारीख / Date of Hearing	29/09/2021
घोषणा की तारीख /Date of Pronouncement	30/09/2021

आदेश / ORDER

**PER PAVAN KUMAR GADALE - JM:**

The Revenue has filed the appeal and the assessee has filed Cross Objections in the order of CIT(A)-28, Mumbai passed u/s 143(3) and 250 of the Income Tax Act, 1961.

2. At the time of hearing, the Ld. AR submitted that the addition deleted by the CIT(A) in the grounds of appeal of the revenue mentioned of Rs.1,50,60,107/- is not correct . Whereas, the Assessing Officer (A.O.) has made the addition of Rs.2,11,55,107/- in respect of the disputed issue .The CIT(A) has dealt at page 45 Para 18 of the order and has deleted the total addition.The Ld. AR also filed a brief note working out the low tax effect on 28.09.2021.

3. Contra, the Ld. DR has acknowledged the receipt of this low tax effect statement and fairly accepted the same.

4. We heard the rival submissions and perused the material on record. Prima-facie, the tax effect in the appeal is below Rs.50 lakhs, therefore covered by CBDT Circular No. 17/2019. We find as per the CBDT Circular dated 08.08.2019, no appeal shall be filed by the revenue before the Hon'ble Tribunal where the tax effect is below Rs 50 lakhs. At this Juncture,We considered it appropriate to refer to the observations of the CIT(A) at page 45 Para 18.1 as under:

*18.1 The facts of the impugned year are identical to that of the earlier year and the AO, neither in the assessment order nor in the remand report, has brought out any distinguishing feature between the two. Respectfully, following the decision of the Hon'ble Tribunal in the appellants own case, which is binding on me, the addition of Rs. 60,95,000/- also is deleted; hence the total addition aggregating to Rs. 2,11,55,107/- is hereby deleted.*

*In the result, the appeal is partly allowed.*

5. On perusal of the assessment order of the A.O at Para 7 in the computation of Total income, the A.O. has made an addition of 2,11,55,107/- and CIT(A) has deleted the addition as discussed in the above paragraphs and Ld.DR has also accepted these facts. We find the circular of the CBDT is also applicable to the pending cases. Accordingly, we dismiss the revenue appeal on maintainability and low tax effect.

6. In case, if the revenue is able to provide evidence that the case falls under any of the exceptions provided in the circular issued by the CBDT. The revenue may prefer miscellaneous application for recalling of this order, if they so desire, in which circumstances, this order shall be recalled by the Hon'ble Tribunal.

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7. Since the revenue appeal is dismissed due to low tax effect, the Cross Objection filed by the assessee becomes infructuous and is dismissed.

8. In the result, the appeal filed by the revenue and Cross Objection filed by the assessee are dismissed.

Order pronounced in the open court on 30.09.2021

Sd/-  
(S RIFAUR RAHMAN)  
ACCOUNTANT MEMBER

Sd/-  
(PAVAN KUMAR GADALE )  
JUDICIAL MEMBER

Mumbai, Dated 30. 09.2021

KRK, PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER.

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार ( Asst. Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Mumbai