

आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट
**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT**

(Conducted Through Virtual Court)

**BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
SMT.SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER**

**ITA No.58/RJT/2019
Assessment Year :2017-18**

ITO (International Taxation) Gandhidham.	Vs	M/s.Aditya Marine Ltd. (Agent of M/s.Martrade Gulf Logistics, FZCO, UAE) Room No.11-13, Dhiraj Chambers Plot No.36, Sec-9/A Gandhidham 370201.
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/(Respondent)
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Assessee by :	Smt.Ashta Maniyar, Ld.AR
Revenue by :	Shri B.D. Gupta, Ld.Sr.DR

सुनवाई की तारीख/**Date of Hearing** : **29/07/2022**
घोषणा की तारीख /**Date of Pronouncement**: **29/07/2022**

आदेश/O R D E R

PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER

Present appeal has been filed by the Revenue against order passed by the Id.Commissioner of Income-Tax (Appeals)-13, Ahmedabad [hereinafter referred to as "CIT(A)"] dated 28.12.2018 pertaining to the Asst.Year 2017-18 passed under section 250(6) of the Income Tax Act, 1961 ("the Act" for short).

2. At the outset, the Id.counsel for the assessee has raised a preliminary objection that the appeal filed by the Revenue is not maintainable because of tax effect involved in this appeal is below Rs.50 lakhs in view of the CBDT circular dated 8.8.2019 prohibiting

of the appeal before the Tribunal. On a query by the Bench about the tax effect involved in the present appeal, the Department has filed a letter dated 29.7.2022 wherein tax effect stated to be Rs.35,23,290/- which is below the threshold limit prescribed by the CBDT for filing appeal by the Revenue before the Tribunal. The contents of the letter read as under:

“2. The hearing in the case was adjourned for a day as the AR of the assessee pointed out that the tax effect in the case was below 5 lacs and therefore not maintainable in view of Circular No.17 of 2019. In this connection, a clarification was sought from the ITO (Int.Tax.), Gandhidham. Vide his mail dated 28.7.2022 (copy enclosed), the ITO has intimated that the tax effect in the case was Rs.35,23,290/- only. In view of the above, the appeal filed is not maintainable and may be withdrawn.

3. *Submitted for kind consideration.*

*Yours faithfully,
Sd/-*

*(B.D.Gupta)
Joint.Commissioner of Income-tax (Sr.D.R.,)
ITAT, Rajkot*

In view of the above letter of the Department, the ld.DR has left the issue to the Tribunal to pass appropriate order in accordance with law.

3. After hearing both the sides and after perusal of the above CBDT Instruction, we are of the view that the present appeal of the Revenue falls within the purview of the CBDT Instruction cited (supra). It is not disputed by the Revenue that tax effect on the disputed addition is less than Rs.50 lakhs, and therefore, 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 is not maintainable and to be dismissed accordingly. It is dismissed.

4. In the result, appeal of the Revenue is dismissed due to low tax effect.

Order pronounced in the Court on 29th July, 2022 at Ahmedabad.

Sd/-
(SUCHITRA R. KAMBLE)
JUDICIAL MEMBER

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad, dated 29/07/2022