

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'B' अहमदाबाद
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, AHMEDABAD

BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
T.R. SENTHIL KUMAR, JUDICIAL MEMBER

ITA No.1848 and 1849/Ahd/2019
Asstt.Year : 2011-12 and 2012-13

Income Tax Officer Ward-4(2)(2) Ahmedabad.	Vs	Gitaben Prabhatbhai Desai 56, Safal Aamrakunj Gokuldharm Sarkhej Sanand Road Ahmedabad 382 110. PAN : ABJPD 1870 H
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(Applicant)	(Responent)
Assessee by :	Shri Vaibha Shah, AR
Revenue by :	Shri Vidhyut Trivedi, Sr.DR

सुनवाई की तारीख/Date of Hearing : 01/09/2022
घोषणा की तारीख /Date of Pronouncement: 02/09/2022

आदेश/O R D E R

PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER

The present two appeals are filed by the Revenue against separate orders passed by the Id.Commissioner of Income(A)-4, Ahmedabad [hereinafter referred to as "Id.CIT(A)"] of even dated 1.10.2019 passed under section 250(6) of the Income Tax Act, 1961 ("the Act" for short) pertaining to Asst.Year 2011-12 and 2012-13.

2. In these two appeals, the grievance of the Revenue is that the Id.CIT(A) has erred in deleting addition of Rs.50.00 lakhs in Asst.Year 2011-12 and Rs.71.40 lakhs for the Asst.Year 2012-12 on account of unexplained investment for purchase of residential bungalow.

3. At the outset, it is pointed out by the Id.counsel of the assessee that appeals filed by the Revenue are not maintainable, because tax effect involved in these appeals is below Rs.50 lakhs. Even in Form

No. no.36, in ground of appeal at Sr.No.10, the Department has mentioned total tax effect on the disputed addition for the Asstt.Year 2011-12 at Rs.14,55,658/- for A.Y.2011-12 and Rs.21,21,768/- for the Asstt.Year 2012-13, and therefore, in view of recent CBDT circular no.17 of 2019 prohibiting filing of appeal by the Department before the Tribunal where tax effect is below Rs.50 lakhs, the appeals of the Revenue are liable to be dismissed at the threshold. The ld.DR did not dispute applicability of the recent CBDT circular and left to the Tribunal to pass appropriate order in the matter.

4. Admittedly tax effect in both appeals of the Revenue are below 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 appeals of the Revenue deserve to be dismissed at the threshold. They are accordingly dismissed.

However, it is observed that in case on re-verification at the end of the AO it can be demonstrated that the tax effect on the disputed addition 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

5. In the result, appeals of the Revenue are dismissed due to low tax effect.

Order pronounced in the Court on 2nd September, 2022 at Ahmedabad.

**Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER**

**Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER**

Ahmedabad, dated 2/09/2022

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