

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH, AHMEDABAD**

BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER

**ITA No.301/Ahd/2021
Assessment Year: 2015-16**

The Income Tax Officer,
Ward Exemption, Vadodara.

vs.

Sainath Bhakta mandal,
AT & TA Petlad,
Sainath Road,
Distt. Anand,
Petlad – 388 450
[PAN – AABTS 2726 E]
(Respondent)

(Appellant)

Appellant by : Dr. Mukesh Jain, Sr. DR
Respondent by : Shri Pramesh Doshi, AR

Date of hearing : 15.09.2022
Date of pronouncement : 21.09.2022

ORDER

This appeal is filed by the Revenue against the order dated 24.09.2021 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2015-16.

2. The Revenue has raised the following grounds of appeal :-

“1 Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) is justified in allowing the claim of depreciation which tantamount to double deduction, without appreciating that with effect from A.Y. 2015-16, provision of Section 11(6) is applicable to the assessee.”

3. When this appeal was called out for hearing, Ld. AR submitted that the present appeal of the Revenue needs to be dismissed on account of low tax effect in view of the recent CBDT Circular No. 17 of 2019 dated 08.08.2019 whereby the monetary limits for filing the appeal by the Revenue before the Tribunal was enhanced from Rs.20 lakhs to Rs.50 lakhs. This instruction is applicable to the pending cases also. Therefore, the present appeal of the Revenue is liable to be dismissed as non-maintainable as held by this Tribunal

in the case of ITO Vs. Dinesh Madhavlal Patel in ITA No.1398/Ahd/2004 for AY 1998-99 vide a consolidated order dated 14.08.2019.

4. The learned DR fairly admitted that the tax effect involved in this appeal is less than the limit prescribed by the aforesaid CBDT Circular.

5. I have heard both the parties and perused all the relevant material available on record. As the Ld. AR rightly contends, this appeal of the Revenue is no longer maintainable in view of the recent 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 must be dismissed as such.

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

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

Order pronounced in the open Court on this 21st day of September, 2022.

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 21st day of September, 2022

PBN/*

Copies to:

- (1) *The appellant*
- (2) *The respondent*
- (3) *CIT*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

By order

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