

**IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND  
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER  
ITA No. 258/SRT/2022 (AY: 2018-19)**

**(Physical Hearing)**

ACIT, Central Circle-2, Surat.	<b>Vs.</b>	Shri Prabodhchandra Jayantilal Patel, 297, Hari Nagar-3, Opp. B.R.C. Gate, Udhana, Surat – 394210.
<b>(Appellant)</b>		<b>(Respondent)</b>
स्थायी लेखासं./जीआइआरसं./PAN/GIR No.: <b>AFVPP7466F</b>		

<b>Appellant by</b>	Shri Vinod Kumar, Sr. DR
<b>Respondent by</b>	Ms Chaitali Shah, CA
<b>Date of Hearing</b>	06/04/2023
<b>Date of Pronouncement</b>	06/04/2023

**आदेश / O R D E R**

**PER Dr. A. L. SAINI, AM:**

The captioned appeal filed by the Revenue, pertaining to Assessment Year (AY) 2018-19, is directed against the order passed by the Commissioner of Income Tax (Appeals)-4, Surat in Appeal No. CIT(A) Surat-4/10553/2016-17 which in turn arises out of an assessment order passed by the Assessing Officer u/s. 143(3) of the Income Tax Act, 1961 (in short the 'Act'), dated 07.05.2021.

2. In this Revenue's appeal, we noticed that tax effect computed by the Assessing Officer, comes to Rs.36,87,195/- which is less than the tax effect limit of Rs.50 lacs prescribed by the CBDT Circular No.17/2019 dated 08.08.2019 for filing of appeal before the Tribunal. Therefore, Learned Authorized Representative (Ld. AR) of the assessee prayed the Bench that the Revenue's appeal may be dismissed. On the other hand, Learned Departmental Representative (Ld. DR) submits that as per enhancement made by Ld. CIT(A), the tax effect would be more than Rs.50,00,000/-.

3. We note that the CBDT has issued Circular No. 17/2019 dated 08.08.2019, whereby the monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal and High Courts and SLP before Supreme Court have been increased as measure for reducing Litigation. The revised monetary limits laid down in para-2 of this Circular are as follows:

- |                                     |                         |
|-------------------------------------|-------------------------|
| <i>1. Before Appellate Tribunal</i> | <i>Rs.50,00,000/-</i>   |
| <i>2. Before High Court</i>         | <i>Rs.1,00,00,000/-</i> |
| <i>3. Before Supreme Court</i>      | <i>Rs.2,00,00,000/-</i> |

4. In the present case, the tax effect by the revenue is less than Rs.50,00,000/-. It is a settled law that the Circulars issued by CBDT are binding on the Revenue. This position was confirmed by the Apex Court in the case of Commissioner of Customs vs. Indian Oil Corporation Ltd. reported in 267 ITR 272 wherein their Lordships examined the earlier decisions of the Apex Court with regard to binding nature of the Circular and laid down that when a circular issued by the Board remains in operation then the Revenue is bound by it and cannot be allowed to plead that it is not valid or that it is contrary to the terms of the statute. The appeal under consideration has certainly been filed contrary to the Circular issued by the CBDT Circular No.17 dated 08.08.2019.

5. We note that Ld. CIT(A) did not enhance the assessment vide para 8.2 of order of Ld. CIT(A), therefore, we do not agree with Ld. DR to the effect that tax effect is more than Rs.50,00,000/-.

6. In the event, the Revenue finds at a later point of time that the tax effect in the appeal is more than Rs.50 lakhs or despite low tax effect the appeal of the revenue is maintainable, the revenue is at liberty to move this Tribunal for recalling of this order.

7. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 06/04/2023.

**Sd/-**  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(DR. A. L. SAINI)**  
**ACCOUNTANT MEMBER**

Surat, Dated: 06/04/2023  
SAMANTA

Copy to:

1. Appellant
2. Respondent
3. CIT(A)
4. Pr. CIT
5. DR
6. Guard File

By order

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Assistant Registrar/Sr. PS/PS  
ITAT, Surat