

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT
(Conducted through E-Court at Ahmedabad)**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.191/Rjt/2022
(Assessment Year: 2015-16)

Income Tax Officer, TDS-2, Rajkot	Vs.	Smt. Sapnaben Vijaybhai Shrimankar, Pelican House, Opp. Sent Marry School, 2 Survoday Society, Kalawad Road, Rajkot-360005
[PAN No.ALHPS8674G]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Abhimanyu Singh, Sr. D.R.
Respondent by:	None

Date of Hearing	10.08.2023
Date of Pronouncement	23.08.2023

ORDER

PER SIDDHARTHA NAUTIYAL, JM:

This appeal has been filed by the Revenue against the order passed by the Ld. Commissioner of Income Tax(Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre, (in short “NFAC”), in Order No. ITBA/NFAC/S/250/2021-22/1042314619(1) vide order dated 31.03.2022 passed for Assessment Year 2015-16.

2. The Revenue has taken the following grounds of appeals:-

“1. The Ld. CIT(A) has erred in law as well on facts of the case in holding that assessee is not required to deduct Tax at source u/s 194 IA

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on payment of Rs. 48,75,000/- made to seller for acquisition of immovable property.

2. *The Ld. CIT(A) has erred in law as well on facts of the case in holding that the assessee should not be treated as assessee in default for non-deduction of tax at source u/s 194 IA of Act even when the value of property is in excess of Rs. 50,00,000/- and the provision doesn't discuss anything about no. of transferor and transferee.*

3. *The Ld. CIT(A) has erred in law as well as on fact that the assessee was not under obligation to deduct TDS as the property acquired is capital asset and the provision of section 194IA is squarely applicable on the case.*

4. *On the facts and in the circumstances of the case, the Ld. CIT(A) ought to have decided the issue under reference, in the light of provision of section 194IA which doesn't discriminate in number of transferor or transferee.*

5. *The appellant craves leave to amend or alter any ground or add a new ground, which may be necessary.*

6. *It is, therefore, prayed that the order of Ld. CIT(A) may be cancelled and that of the Assessing Officer may be restored to the above fact."*

3. At the time of hearing, it was submitted by the Ld. AR for the assessee that appeal filed by the Revenue is hit by recently issued CBDT Circular No.17 of 2019 dated 08/08/2019 revising the previous thresholds pertaining to tax

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effects. As per aforesaid Circular, all pending appeals filed by Revenue are liable to be dismissed as a measure for reducing litigation where the tax effect does not exceed the prescribed monetary limit which is now revised at Rs.50 Lakhs. In the instant case, the tax effect on the disputed issues raised by the Revenue is stated to be not exceeding Rs.50 lakhs and therefore appeal of the Revenue is required to be dismissed in limine.

4. The Learned DR for the Revenue fairly admitted the applicability of the CBDT Circular No. 17 of 2019. Accordingly, appeal of the Revenue is dismissed as not maintainable. However, it will be open to the Revenue to seek restoration of its appeal on showing inapplicability of the aforesaid CBDT Circular in any manner.

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

This Order pronounced in Open Court on

23/08/2023

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER

Ahmedabad; Dated 23/08/2023

TANMAY, Sr. PS

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

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

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, राजकोट / ITAT, Rajkot