



**आयकरअपीलीयअधिकरण,राजकोटन्यायपीठ,राजकोट।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL,**  
**RAJKOT BENCH, RAJKOT**  
**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**  
**आयकरअपीलसं./ITA No.942/RJT/2024**  
**निर्धारणवर्ष /Assessment Year: 2017-18**

Ganesh V. Yesurke, The ACIT, Central Circle-2, “Amruta Estate”,2 <sup>nd</sup> Floor, MG Road, Rajkot 360001	बनाम Vs.	Vaidya Retalities 1-A Vidut Nagar Society “Vandemataram” Opp Astron Shopping Centre, Rajkot 360001
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी/Respondent)
<b>Pan No.</b>		AAIFV8723D

निर्धारितीकीओरसे/Assessee by :Shri Sagar Shah, Ld. AR

राजस्वकीओरसे/Revenue by :Shri Sanjay Pungalia, Ld. CIT(DR)

सुनवाईकीतारीख/Date of Hearing : 04/ 03 /2025

घोषणाकीतारीख/Date of Pronouncement : 20/03/2025

**ORDER**

**Per, Dr. A. L. SAINI, AM**

Captioned appeal filed by the Revenue, pertaining to assessment year 2017-18, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals) [in short ‘Ld. CIT(A)’], dated 29/11/2024, which in turn arises out of an assessment order passed by the assessing officer, under section 143(3)r.w.s 263 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), dated 30/03/2023.

2. At the outset itself, the Learned Counsel for the assessee as sailed the impugned order by contending that the the appeal u/s 260A filed by the



Department before Hon'ble High Court, vide appeal no. R/Tax Appeal No. 786 of 2024, against the ITAT order in assessee`s case, dated 19.01.2024, in ITA No.113/RJT/2024, cannot sustain as the same has been disposed by Hon`ble Gujarat High Court, vide order dated 07.10.2024, on the ground of low tax effect. Therefore, appeal filed by the Department, in ITA no. 942/RJT/2024, for assessment year 2017-18, has become infructuous, therefore, the same may be dismissed, by this Tribunal.

3. The Learned CIT- DR for the Revenue, debarred from objecting the stand of the ld. Counsel for the assessee.

4. We have heard both parties, and gone through the judgement of the Hon`ble jurisdictional High Court of Gujarat in Tax Appeal No. 786 of 2024, vide judgement dated 07.10.2024, in the assessee`s own case and noted that the appeal filed by the Department, has been dismissed by the Hon`ble Court, on account of low tax effect, taking into account the Circular no. 9 of 2024, dated 17.09.2024, and stated that appeal of the Department is not maintainable. We note that the appeal was filed by Department against the order u/s 250 of the Act, dated 29.11.2024, by raising the below mentioned ground.

*"On the facts and circumstances of the case and in law the Ld. CIT(A) has erred in holding that the order passed by the AO under section 143(3) r.w.s. 263 of the Act does not stand good as the order u/s 263 of the Act dated 16.02.2022 has been quashed by the Hon'ble ITAT vide 113/RJT/2024 dated 19.01.2024 despite the fact that appeal under section 260A of the Act has been filed against this order of Hon'ble ITAT."*

As we have stated above that the appeal u/s 260A filed by the Department before Hon'ble High Court vide appeal no. R/TAX APPEAL NO. 786 of 2024 against the ITAT order dated 19.01.2024 cannot sustain as the same has been disposed by Hon`ble High Court, vide order dated 07.10.2024 on the ground of



low tax effect, therefore, we dismiss the appeal filed by the Department as the ground is not sustainable in law as well as in facts.

5. In the result, appeal filed by the Revenue is dismissed.

**Order pronounced in the open court on 20/03/2025.**

Sd/-  
**(DINESH MOHAN SINHA)**  
**JUDICIAL MEMBER**

Rajkot (True Copy)

दिनांक/ Date: 20/03/2025

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

**Copy of the Order forwarded to**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot