

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “C” BENCH, AHMEDABAD  
[Coram: Pramod Kumar AM and S S Godara JM]**

ITA No. 766/Ahd/2015  
Assessment Year : 2011-12

**The Deputy Commissioner of Income-tax** .....**Appellant**  
*Circle-1(2),  
Baroda*

**Vs.**

**M/s. Pragati Sahakari Bank Ltd** .....**Respondent**  
*Alembic Colony, Alembic Road  
Baroda – 390 003  
[PAN : AAAAP 0468 N]*

**Appearances by:**

**Prasoon Kabra** *for the appellant*  
**Bandish S. Sparkar** *for the respondent*

Date of concluding the hearing : 24.11.2017  
Date of pronouncing the order : 24.11.2017

**O R D E R**

**Per Pramod Kumar, AM:**

1. This appeal by the Revenue is directed against the order of the learned Commissioner of Income-Tax (Appeals)-5, Baroda dated 26.11.2014 for Assessment Year 2011-12.

2. The grievances of the Assessing Officer are as follows:-

*“1. On the facts and circumstances of the case and in law, the Ld. CIT(A) has failed to appreciate the fact that an assessee is not allowed to follow hybrid system of accounting.*

*2. Whether the Id. CIT(A) was correct in deleting the addition made on account of interest income on NPAs as the assessee is a non-scheduled co-operative bank and the provisions of section 43D is not applicable to the assessee?”*

3. At the outset, the learned counsel for the assessee submits that the appeal of the Revenue needs to be dismissed on account of low tax effect in view of the CBDT Circular No.21 of 2015 dated 10.12.2015. The learned Departmental Representative fairly admitted that the tax effect is less than the limit prescribed by the aforesaid CBDT Circular.

4. We have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of applicable legal position.

5. We find that *prima-facie* this appeal of the Revenue is not maintainable in view of CBDT Circular No. 21/2015 in F.No.279/Misc. 142/2007-ITJ (Pt) dated 10th December 2015, vide which it has been provided that if the tax effect by virtue of the Commissioner of Income-tax (Appeals)'s order is below Rs. 10 lacs, then that order would not be challenged before the Tribunal in further appeal. The Board has provided exemptions at clause (8) of the Instructions wherein it has been provided that these instructions will not be applicable, if vires of any provisions has been quashed by impugned order or addition was made on some audit objections or the addition relates to undisclosed foreign assets/bank accounts, etc. We find that the present case does not fall within the exemption clause and the tax is less than Rs.10 lacs. Therefore, the present appeal is not maintainable and hence dismissed.

6. In the result, the appeal filed by the Revenue is dismissed *in limine*. Pronounced in the open court today on the 24<sup>th</sup> of November, 2017.

Sd/-

**S S Godara**  
(Judicial Member)

**Ahmedabad, the 24<sup>th</sup> day of November, 2017**

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Copies to: (1) The appellant  
(2) The respondent  
(3) Commissioner  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

Sd/-

**Pramod Kumar**  
(Accountant Member)

By order

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Assistant Registrar  
Income Tax Appellate Tribunal  
Ahmedabad benches, Ahmedabad