

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**RAJKOT BENCH, RAJKOT**

[Conducted through E-Court at Ahmedabad]

**(BEFORE SHRI P. K. KEDIA, ACCOUNTANT MEMBER  
& SHRI MAHAVIR PRASAD, JUDICIAL MEMBER)**

**ITA. No: 1226/RJT/2010  
(Assessment Year: 2006-07)**

<b>DCIT, Circle-1, Junagadh</b>	<b>V/S</b>	<b>M/s. Ashutosh Developers Pvt. Ltd., 11-Jitendra Complex, Kalwa Chowk, Junagadh</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

**PAN: AABCA8065H**

**Appellant by : Shri Praveen Verma, Sr. D.R.  
Respondent by : Shri Darshit Rampura, A.R.**

**(आदेश)/ORDER**

Date of hearing : 19 -07-2018  
Date of Pronouncement : 13-08-2018

**PER MAHAVIR PRASAD, JUDICIAL MEMBER**

1. This appeal by the Revenue is directed against the order of the Ld. CIT((A)-IV, Rajkot dated 16.07.2010 pertaining to A.Y. 2006-07, on the following grounds:
  1. *The ld. CIT(A)-IV, Rajkot has erred in law and on facts in deleting the addition of Rs. 10,65,531/- made by the A.O. on account of provision of section 41(1).*

2. *On the facts of the case and in law the Ld. CIT(A) ought to have upheld the order of the A.O.*
3. *Any other ground that the revenue may raise before or during hearing proceedings before the Hon'ble ITAT.*
4. *It is therefore, prayed that the order of the CIT-IV, Rajkot may kindly be set-aside and that of Assessing Officer be restored.*

2. At the outset, the Id. Counsel for the assessee 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. 3 of 2018 dated 11.07.2018. Ld. Departmental Representative fairly admitted that the tax effect involved in this appeal is less than the limit prescribed by the aforesaid CBDT Circular.
3. We have heard both the parties and perused the material available on record. We find that prima-facie this appeal of the Revenue is not maintainable in view of the recent CBDT Circular No. 03/2015 in F.No.279/Misc. 142/2007-ITJ (Pt) dated 11<sup>th</sup> July 2018, vide which it has been decided by the Board that no departmental appeals should be filed before the Tribunal if the tax effect by virtue of the Commissioner of Income-tax (Appeals)'s order is below Rs. 20 lacs. The Board has provided exceptions at clause (10) of the Instructions wherein it has been provided that these instructions will not be applicable, where the Constitutional validity of the provisions of an Act/Rule is under challenge or where Board's order, notification, instruction or circular has been held to be illegal or where Revenue Audit objection in the case has been accepted by the Department or where the addition relates to undisclosed foreign assets/bank accounts, etc. We find that the present case does not fall within the exception clause and the tax is less than Rs.20 lacs. Therefore, the present appeal is not maintainable and hence dismissed.

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

Order pronounced in Open Court on	13 - 08- 2018
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Sd/-

**(P. K. KEDIA)**  
**ACCOUNTANT MEMBER True Copy**  
Ahmedabad: Dated 13/08/2018

Sd/-

**(MAHAVIR PRASAD)**  
**JUDICIAL MEMBER**

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER

Deputy/Asstt.Registrar  
ITAT,Ahmedabad