

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: 600/RJT/2015
(Assessment Year: 2012-13)**

Income Tax Officer, Ward- 2(2), Jamnagar	V/S	M/s. Ranjit Freight Carrier, 1- Ghanshyam Wadi, Indira Gandhi Marg, Jamnagar
(Appellant)		(Respondent)

PAN: AACFR 4159F

**Appellant by : Shri Arvind N Sontakke, Sr. D.R.
Respondent by : Shri Sanjeev Budhh,A.R.**

(आदेश)/ORDER

Date of hearing : 16 -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), Jamnagar dated 08.09.2015 pertaining to A.Y. 2012-13, on the following grounds:

1. *Whether on facts and the circumstances of the case, the ld. CIT(A) was justified in holding that the difference of Rs. 27,54,445/- was duly reconcile by the assessee and hence deleting the addition of Rs. 27,54,445/-.*
 2. *Whether on facts and the circumstances of the case and in law, the ld. CIT(A) was justified in deleting the addition made of Rs. 7,35,214/- on account of N.P. calculated @ 5% of total turnover of the assessee.*
 3. *Whether on facts and the circumstances of the case, the ld. CIT(A) was justified in deleting the addition made u/s. 40(a)(ia) of the I.T. Act, 1961 on account of non-submission of corroborative evidence of Rs. 6,69,741/- and Rs. 40,800/-.*
 4. *On the basis of the facts and circumstances of the case, the ld. CIT(A) ought to have upheld the order of the Assessing Officer.*
2. At the outset, the ld. 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 11th 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