

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: 156/RJT/2014
(Assessment Year: 2009-10)**

Income Tax Officer, Ward- 1(1), Rajkot	V/S	M/s. Ayodhyapati Investment Pvt. Ltd. Shri Dutt Niwas, Kapuria Chowk, Gondal
(Appellant)		(Respondent)

PAN: AABCA6007B

**Appellant by : Smt. Usha N.Shrote, Sr. D.R.
Respondent by : None**

(आदेश)/ORDER

Date of hearing : 18 -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 30.12.2013 pertaining to A.Y. 2009-10, on the following grounds:

1. *The Ld.CIT(A), Jamnagar has erred in law and on fact in deleting the disallowance made of Rs.4,06,702/- on account of currency derivative loss.*

2. *The Ld.CIT(A), Jamnagar has erred in law and on fact in deleting the disallowance made of Rs.5,25,580/- account of non-genuine creditor.*
3. *The Ld.CIT(A), Jamnagar has erred in law and on fact in deleting the addition made of Rs.42,50,000/- on account of unexplained credit received in the form of off market shares from a proven non creditworthy and non genuine person.*
4. *On legal and factual status of the case, the Ld.CIT(A) ought to have upheld the order of the Assessing Officer.*
5. *It is, prayed that order passed by the Ld.CIT(A) may be quashed and that of the 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 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