

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH**

**(BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
& SHRI WASEEM AHMED, ACCOUNTANT MEMBER)**

आयकर अपील सं./I.T.A. No. 3395/AHD/2016

(निर्धारण वर्ष / Assessment Year : 2011-12)

ITO. Ward – 3(2)(10), Ahmedabad.	बनाम/ Vs.	Shri Niteshkumar Arvindbhai Thakkar, Balaram Trading Co., Survey No.1993/2 The Laxmi Cotton Ginning Factory Bagodara Road, Majpur Road, At: Dholka, Ahmedabad.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ADHPT 0858 M		
(अपीलार्थी/ Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/ Appellant by :	Shri Kamlesh Makwara, Sr. D.R.
प्रत्यर्थी की ओर से/ Respondent by:	--None--

सुनवाई की तारीख/ Date of Hearing	10/09/2018
घोषणा की तारीख / Date of Pronouncement	18/09/2018

आदेश / O R D E R

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The captioned appeal has been filed at the instance of the revenue against the order of the Commissioner of Income Tax(Appeal)-3, Ahmedabad [CIT(A) in short] vide appeal no.CIT(A)-3/Wd.3(2)(3)/505/14-15 dated 04-10-2016 arising in the matter of assessment order passed under

s.143(3) of the Income Tax Act, 1961(here-in-after referred to as "the Act") dated 24.03.2014 relevant to Assessment Year (AY) 2011-12.

2. The grounds of appeal raised by the Revenue are as under:-

- “1. *The Ld. CIT(A) has erred in law and on facts in deleting the disallowance of Rs.39,38,072/- made on account of F&O loss.*
- 1.1 *The Ld. CIT(A) has erred in law and on facts in not appreciating that the assessee failed to explain the information received from NSE that the assessee had not carried out any F&O business during the year.*
2. *On the facts and circumstances of the case, the Ld. Commissioner of Income tax (A) ought to have upheld the order of the Assessing Officer to the above extent.*
3. *It is, therefore, prayed that the order of the Ld. Commissioner of Income tax (A) may be set-aside and that of the Assessing Officer be restored to the above extent.”*

3. At the time of the hearing, we observe that the tax effect in the appeal filed by the Revenue is less than Rs. 20 lacs. As per the Circular No. 3 of 2018 dated 11/07/2018 issued by CBDT recently all pending appeals filed by Revenue are liable to be dismissed/ withdrawn/ not pressed to reduce the litigation where the tax effect does not exceed the prescribed monetary limit, i.e., Rs.20 Lacs. The relevant extract of the circular is reproduced below:

- “2. *In supersession of the above Circular, it has been decided by the Board that departmental appeals may be filed on merits before Income Tax Appellate Tribunal and High Courts and SLPs/ appeals before Supreme Court keeping in view the monetary limits and conditions specified below.*

3. Henceforth, appeals/ SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:

S. No.	Appeals/ SLPs in Income-tax matters	Monetary Limit (Rs.)
1.	Before Appellate Tribunal	20,00,000
2.	Before High Court	50,00,000
3.	Before Supreme Court	1,00,00,000

The monetary limit for filing the appeals by the Revenue before the Tribunal has been increased to Rs. 20 Lacs. It is also clarified in the said Circular that the said monetary limit is applicable retrospectively even to the appeals pending before the Tribunal. The CBDT has also instructed that such pending appeals below this specified tax limit of Rs.20 lacs may be withdrawn / not pressed.

In the case on hand, it was noticed that the tax effect on the disputed issue raised by the Revenue is claimed to be less Rs.20 Lacs. Therefore appeal of the Revenue is required to be dismissed *in limine* in terms of the above circular.

4. The Ld. DR for the Revenue fairly agreed on the applicability of the CBDT Circular No. 3 of 2018. Accordingly, the appeal of the Revenue is dismissed as not maintainable. However, the Revenue is on the liberty to move the miscellaneous application to recall the order if the tax effect exceeds the threshold limit or the case of the Revenue falls in

any of the exception provided in the aforesaid CBDT Circular in any manner. The MA shall be filed within the prescribed time. Hence the appeal of the Revenue is dismissed.

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

This Order pronounced in Open Court on	18/09/2018
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Sd/-

(RAJPAL YADAV)
JUDICIAL MEMBER

Sd/-

(WASEEM AHMED)
ACCOUNTANT MEMBER

Ahmedabad; Dated 18/09/2018
Priti Yadav, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण / DR, ITAT,
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

True copy

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad