

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद ।

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD - BENCH 'D'

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

ITA No.3007/AHD/2014

निर्धारण वर्ष/ Asstt.Year: 2010-2011

ITO, Ward-4(3) Ahmedabad.	Vs.	Logguss EnergyLtd. Plot No.5, Road No.1, GIDC Kathwada Ahmedabad 382 430.
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(Applicant)	(Responent)
Revenue by :	Shri Vinod Tanwani, Sr.DR
Assessee by :	Shri Biren Shah, AR

सुनवाई की तारीख/Date of Hearing : 23/09/2019

घोषणा की तारीख /Date of Pronouncement: 24/09/2019

आदेश/O R D E R

PER RAJPAL YADAV, JUDICIAL MEMBER:

Revenue is in appeal before the Tribunal against order of Id.CIT(A)-VIII, Ahmedabad dated 28.8.2014 passed for the assessment year 2010-11.

2. The Revenue is aggrieved by the action of the Id.CIT(A) in deleting addition made by the AO under section 68 of the Act.

3. The Id.counsel for the assessee at the outset submitted that disputed addition in the present appeal is Rs.1,10,00,000/- and therefore, Tax effect on the same is than Rs.50 lakhs. She filed a calculation sheet showing tax calculation of Rs.37,38,900/- He submitted that by virtue of recent CBDT Circular No.17 of 2019 dated 8.8.2019, Department has been instructed not to file appeal before the Tribunal where tax effect is below Rs.50 lakhs. This instruction is applicable to the pending cases also. Therefore, the present appeal of the Revenue is liable to be dismissed at the threshold. The Id.DR, however, did not dispute applicability of the recent CBDT circular and left to the Tribunal to pass appropriate order in the matter.

4. After hearing both the sides and after perusal of the above CBDT Instruction, we are of the view that the present appeal of the Revenue falls within the purview of the CBDT Instruction cited (supra). It is not disputed by the Revenue that tax effect on the disputed addition is more than Rs.50 lakhs, and therefore, keeping in view the above CBDT circular and provisions of section 268A of the Income Tax Act, we are of the view that the present appeal of the Revenue deserves to be dismissed. It is dismissed.

However, it is observed that in case on re-verification at the end of the AO it can be demonstrated that the tax; effect is more, or Revenue's case falls within the ambit of exceptions provided in the Circular, then the Department will be at liberty to approach the Tribunal for recall of this order. Such application should be filed within the time period prescribed in the Act. In view of the above, the appeal of the Revenue is dismissed due to low tax effect.

5. In the result, appeal of the Revenue is dismissed due to low tax effect.

Order pronounced in the Court on 24th September, 2019 at Ahmedabad.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER

Ahmedabad; Dated 24/09/2019