

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद ।**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"A" BENCH, AHMEDABAD**

*(through web-based video conferencing platform)*

**BEFORE SHRI P.M. JAGTAP, VICE-PRESIDENT  
AND MS. MADHUMITA ROY, JUDICIAL MEMBER**

**ITA No. 1680/Ahd/2019**

**Assessment Year : 2013-14**

Income Tax Officer, Ward-2(1)(3), Ahmedabad	Vs	M/s. Lucent Cleanenergy Pvt. Ltd., FF-14-15, 1 <sup>st</sup> Floor, Pushpak Apartment, Prernatirth Derasar Road, Satellite Ahmedabad PAN : AACCL 0497 P
<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/ (Respondent)</b>
Revenue by :		Shri S.S. Shukla , DR
Assessee by :		None

सुनवाई की तारीख/Date of Hearing : 28/03/2022

घोषणा की तारीख /Date of Pronouncement: 28/03/2022

**आदेश/O R D E R**

**PER P.M. JAGTAP, VICE-PRESIDENT :**

The Revenue is in appeal before the Tribunal against the order of the learned Commissioner of Income-Tax (Appeals)-2, Ahmedabad dated 23.08.2019 passed for Assessment Year 2013-2014.

2. The ground taken by the Revenue is as follows:-

*"The Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.1,03,04,278/- made by the Assessing Officer in respect of share capital received in excess of fair market value which is disallowed u/s. 56(2)(viib) of the Act."*

3. At the time of hearing before us, none appeared on behalf of the assessee; however, since the issue in question is covered by CBDT Circular No. 17 of 2019 dated 08.08.2019, this appeal is decided *ex-parte* qua the assessee, after hearing the learned Departmental Representative and perusing the material available on record.

4. Having heard the learned Departmental Representative and having perused the material on record, we find that this appeal of the Revenue is

no longer maintainable in view of the CBDT Circular No. 17 of 2019 dated 08.08.2019. The mandatory limit for cases in which Revenue can challenge the relief granted by the CIT(A) now stands enhanced to Rs.50 lakhs. This concession granted by the Central Board of Direct Taxes (CBDT) is retrospective in effect inasmuch as it applies to all pending appeals as well. In view of the above position, the appeal of the Revenue is no longer maintainable and is dismissed as such.

5. It is, however, made clear that on re-verification at the end of the Assessing Officer if it comes out that the tax effect of more than Rs.50 lakhs is being involved in the appeal or the appeal falls within the exemption clause of the Circular, then the Revenue will be at liberty to file Miscellaneous Application to recall the Tribunal order. The application should be filed within the time limit prescribed in the Act.

6. In the result, appeal of the Revenue is dismissed due to low tax effect.  
Order pronounced in the open Court on 28<sup>th</sup> March, 2022 at Ahmedabad.

Sd/-

**(MADHUMITA ROY)**  
**JUDICIAL MEMBER**

Ahmedabad, Dated 28 /03/2022

*SR*

Sd/-

**(P.M. JAGTAP)**  
**VICE-PRESIDENT**

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 प्रतिनिधिआयकर अपीलीय अधिकरण ,/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

TRUE COPY

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण  
ITAT, Ahmedabad