

IN THE INCOME TAX APPELLATE TRIBUNAL  
RAJKOT BENCH, RAJKOT

[CONDUCTED THROUGH VIRTUAL COURT]

**Before: Shri Waseem Ahmed, Accountant Member  
And Shri Siddhartha Nautiyal, Judicial Member**

**ITA No. 63/Rjt/2019  
Assessment Year 2013-14**

The ITO, Ward-1(3), Jamnagar (Appellant)	Vs	Jitendra Babul Ratda Vivek, Plot No. 48/4, Rajnagar, Saru Section Road, Nr. Dr. Popat D.M. Jamnagar PAN: AJOPR3621D (Respondent)
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**Assessee by: None**

**Revenue by: Shri K.L. Solanki, Sr. D.R.**

Date of hearing : 02-11-2023

Date of pronouncement : 08-11-2023

**आदेश/ORDER**

**PER : SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER:-**

This Revenue's appeal for A.Y. 2013-14, arises from order of the CIT(A), Jamnagar dated 22-01-2019, in proceedings under section 250 of the Income Tax Act, 1961; in short "the Act".

3. At the outset, it is observed that the total tax effect of the appeal filed by the Department is Rs. 43,49,053/-, which is below the prescribed limit for filing of appeal by the Department.

4. We find that the appeal of the Revenue is presented on 27.3.2019. On 8.8.2019 the CBDT has issued Instructions bearing No. 17 of 2019 prohibiting its subordinate authorities from filing of the appeal to the Tribunal against the order of the CIT(A) where the tax effect by virtue of the relief given by the CIT(A) is less than Rs.50 lakhs. The instructions have been made applicable with retrospective effect, meaning thereby, these instructions are applicable on pending appeals also. In the present case, “tax effect” on the total income assessed minus the tax that would have been chargeable had such total income been reduced by the amount of income in respect of the issue against which appeal is filed, is less than Rs.50 lakhs. Further, the case of the Revenue does not fall within the ambit of exceptions provided in the Circular. Thus, 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 accordingly dismissed.

4.1 However, it is observed that in case on re-verification at the end of the AO it comes to the notice 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, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 08-11-2023

**Sd/-**  
**(WASEEM AHMED)**  
**ACCOUNTANT MEMBER**  
**Ahmedabad : Dated 08/11/2023**

**Sd/-**  
**(SIDDHARTHA NAUTIYAL)**  
**JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order,

Assistant Registrar,  
Income Tax Appellate Tribunal,  
Rajkot