**(2013) 04 GUJ CK 0088**

**In the Gujarat High Court**

**Case No :** Tax Appeal No. 158 of 2013

Commissioner of Income Tax APPELLANT

Vs

Prasad Multi Services Pvt. Ltd. RESPONDENT

**Date of Decision :** 01-04-2013

**Acts Referred:**

**Citation :** (2013) 04 GUJ CK 0088

**Hon'ble Judges :** S.G. Gokani, J;Akil Abdul Hamid Kureshi, J

**Bench :** Division Bench

**Advocate :** Pranav G. Desai, No. 1, for the Appellant;

## Judgement

Akil Kureshi, J.—Revenue is in appeal against the judgment of the Income Tax Appellate Tribunal dated 05.10.2012, by which, the Tribunal had dismissed the revenue''s appeal as involving tax effect lower than what is prescribed by the CBDT in its circular permitting the revenue to prefer appeal before the Tribunal. The fact, that tax effect involved was approximately Rs. 1.23 lacs is not in dispute. Further that, for cases involving such tax effect, CBDT circular dated 09.02.2011 ordinarily would not permit the revenue to carry the matter in appeal before the Tribunal is also not in dispute. The revenue before us, however, contends that the case fall under one of the exceptions, envisaged under the circular. According to revenue, the issue was accepted by the revenue at the instance of the audit party. It is true that CBDT Circular dated 09.02.2011 carves out three exceptions; one of them is where revenue audit objection in the case has been accepted by the Department. In the present case, however, no such facts were presented before the Tribunal. In the impugned order, the Tribunal observed as under:

2. The Assessing Officer himself has certified that the tax effect in the present appeal is Rs. 1,23,451/- which is well below the monetary limit prescribed by the Central Board of Direct Taxes for filing the appeal before this Tribunal. In this connection, the ld. Authorized Representative for the assessee has drawn our attention to instruction No. 3/2011, dated 9-2-2011 issued by the Central Board

of Direct Taxes in which the monetary limit of Rs. 3 lakhs has been prescribed for filing the appeal before this Tribunal. The ld. Departmental Representative could not point out any reason that led the Department to file the present appeal in contravention of the aforesaid instruction issued by the Board. In this view of the matter, the appeal filed by the Department is dismissed in limine.

Such being the facts, this tax appeal is dismissed.

 