

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'B', NEW DELHI**

**Before Sh. H. S. Sidhu, Judicial Member**

**Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 4028/Del/2016 : Asstt. Year : 2010-11**

M/s C K Infrastructures Ltd., LU-75, DDA Shopping Complex, Pitampura, Delhi	Vs	Deputy Commissioner of Income Tax, Circle-3(1), New Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AACCC0874F</b>		

**Assessee by : Sh. K. P. Garg, CA**

**Revenue by : Sh. Saras Kumar, Sr. DR**

**Date of Hearing: 19.12.2019**

**Date of Pronouncement: 26.12.2019**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the assessee against the order of Id. CIT (A)-2, New Delhi dated 31.03.2016.

2. The effective prayer of the assessee is that for proper prosecution of the case based on facts and circumstances, which has not been or could not be induced or filed before lower authorities either because proper and sufficient opportunity was not provided or because it was not solicited or its need was not appreciated or because the evidence was denied and came into the hands of the assessee subsequently.

3. Brief facts of the case are that the AO made addition on account of the share capital received from two entities namely, M/s Shyama Infotech Ltd. 137, Dadiseth Agari Lane, 2<sup>nd</sup> Floor, Officer NO. 20, Kaiba Devi, Mumbai-400020 and M/s Amarjit Motors Finance P. Ltd., G-10/66, Ground

Floor, Sector-15, Rohini, New Delhi-110085. During the appellate proceedings, the assessee sought to file additional evidences to support their claim. The AO issued notices u/s 133(6) of the Income Tax Act, 1961 to both the parties. M/s Amarjit Motors Finance P. Ltd. complied partially to the notice of the AO. Regarding the M/s Shyama Infotech Ltd. for which the compliance has not made before the AO, the Id. CIT (A) issued notice u/s 133(6) of the Act in called for details. On obtaining the details from the company, M/s Shyama Infotech Ltd., the Id. CIT (A) deleted the addition of Rs.75 lacs. Regarding the M/s Amarjit Motors Finance P. Ltd. the Id. CIT (A) did not send any notice u/s 133(6).

4. Before us, it was argued by the Id. AR that, with regard to the second party M/s Amarjit Motors Finance P. Ltd., the party has duly reply to the same and this reply was directly received by the ITO on 31.07.2015 as admitted by the Id. AO in the remand report. The AO has himself reproduced part of the reply which states, share premium is decided by both the parties mutually, immediate sources o funds have been given as amount received from Blackberry Consultants Pvt. Ltd. Rs.30.00 lakhs on 17.11.09 and regarding directorship that there is no common director in both the companies that is M/s C K Infrastructure Ltd. and M/s Amarjit Motors Finance P. Ltd. Thus, it was argued that the transactions stand confirmed by the party and discharges the complete burden on the part of the assessee in this regard. It was submitted that once the company replied for the notice, the observation of the AO that the company doesn't exist cannot be accepted legally. It was also submitted that the report of the Inspector that no such company exist at the address given cannot be accepted as the company are still as per the ROC record and are running of business.

5. The Id. DR argued that the summons issued by the AO have returned back, hence no further opportunity be given to the assessee as this juncture.

6. Heard the arguments of both the parties and perused the material available on record. We find that while due consideration has been given and enquiries have been conducted in case of the subscriber M/s Shyama Infotech Ltd., no such investigation or enquiry has taken place in the case of M/s Amarjit Motors Finance P. Ltd. Hence, keeping in view, the entirety of the matter, we hereby remand the issue to the file of the Id. CIT (A) to give due consideration to the details filed by the assessee as additional evidences and to conduct enquiries as deemed fit and then to pass an order in accordance with the provisions of the Act.

7. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 26/12/2019.

Sd/-

**(H. S. Sidhu)**  
**Judicial Member**

**Dated: 26/12/2019**

\*Subodh\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**ASSISTANT REGISTRAR**