

THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" Bench, Mumbai  
Shri B.R. Baskaran (AM) & Shri Kuldip Singh (JM)

I.T.A. No. 7737/Mum/2019 (A.Y. 2010-11)

ITO-3(3)(2) Room No. 602 6 <sup>th</sup> Floor Aayakar Bhavan M.K. Road Mumbai-400 020.	Vs.	M/s. Shekhavati Investment Corporation Ltd. 402, Raheja Centre Free Press Journal Marg 214, Nariman Point Mumbai-400 021.  PAN : AAFCS8332K
(Appellant)		(Respondent)

I.T.A. No. 7736/Mum/2019 (A.Y. 2010-11)

ITO-3(3)(2) Room No. 602 6 <sup>th</sup> Floor Aayakar Bhavan M.K. Road Mumbai-400 020.	Vs.	M/s. Savita Investment Co. Ltd. 402, Raheja Centre Free Press Journal Marg 214, Nariman Point Mumbai-400 021.  PAN : AAFCS7151N
(Appellant)		(Respondent)

Assessee by	Shri Yogesh Jojode
Department by	Shri Ashish Phophare
Date of Hearing	11.05.2022
Date of Pronouncement	21.06.2022

ORDER

Per B.R.Baskaran (AM) :-

The revenue has filed these appeals challenging the orders passed by learned CIT(A) in the hands of the above said assesseees and both the appeals relate to A.Y. 2010-11.

2. The Revenue has challenged the decision of learned CIT(A) in deleting the addition relating to client code modification and also deleting the addition

made under section 14A of the I.T. Act made by the Assessing Officer in the respective hands of the assessee herein.

3. We have heard the parties and perused the record. We noticed that the tax effect involved in respect of the issues disputed by the revenue in both the cases is less than Rs. 50 lakhs and hence the revenue is precluded in pursuing these appeals as per Circular No. 17 of 2019 dated 8.8.2019 issued by the CBDT. It was brought to our notice by Ld A.R that the issues contested by the revenue in these two appeals are not covered by any of the exceptions given in the above said circular. Accordingly, it was contended by Ld A.R that both these appeals of the revenue are liable to be dismissed on account of tax effect, being below the monetary limits prescribed by the CBDT for preferring appeals by the revenue.

4. The Learned Departmental Representative, however, submitted that the CBDT has issued another Circular No. 23 of 2019 dated 6.9.2019, wherein it has been stated that appeals may be filed on merit as an exception to the said circular where the issue involved is related to "organized Tax Evasion activity". He submitted that the client code modification is an organised tax evasion activity and hence these two cases would be covered by the exceptions given in the latest circular, referred above.

5. However, it was brought to the notice that Circular No. 23 of 2019 shall be applicable only if a special order directing filing of appeal was passed. Accordingly, the Ld D.R was directed to furnish a copy of the special order, if any, passed in these two cases latest by 18<sup>th</sup> May, 2022. However, copy of any such order, if any, was not filed.

6. Accordingly, we dismiss both the appeals filed by the revenue on the ground that the tax effect involved in these two appeals are below the monetary limits prescribed by CBDT. However, liberty is given to the revenue

to move appropriate application for recall of this order in accordance with law, if it is able to show that the issues contested in these two appeals are covered by the exceptions.

7. In the result, both the appeals of the revenue are dismissed.

Order pronounced in the open court on 21.06.2022.

Sd/-  
(KULDIP SINGH)  
JUDICIAL MEMBER

Sd/-  
(B.R. BASKARAN)  
ACCOUNTANT MEMBER

Mumbai; Dated : 21/06/2022

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai

PS