

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'B' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
and  
SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER**

**ITA No.5270/Del./2019  
(ASSESSMENT YEAR : 2011-12)**

ITO, Ward 5 (4),  
New Delhi.

vs.

M/s. C.K. Software Pvt. Ltd.,  
C-24, GK Enclave 01,  
New Delhi – 110 048.

**(PAN : AACCC0824F)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : None

REVENUE BY : Ms. Sangeeta Yadav, Sr. DR

Date of Hearing : 07.07.2022

Date of Order : 07.07.2022

**ORDER**

**PER SHAMIM YAHYA, ACCOUNTANT MEMBER :**

This appeal by the assessee is directed against the order of the Id. CIT (Appeals)-2, New Delhi dated 25.03.2019 for the assessment year 2011-12.

2. The grounds raised by the Revenue reads as under :-

“Whether on the facts and the circumstances of the case and law, the Ld. CIT (A) has erred in deleting the addition of Rs.1 crore made on account of unexplained share capital received from Assurance Buildtech Ltd. [earlier known as Sharan Exports (India) Ltd.]”

3. In this case, pursuant to addition on account of unexplained share capital, AO made addition of Rs.3 crores received from 4 parties. Upon assessee’s appeal, Id. CIT (A) deleted the addition on account of one party

amounting to Rs.1 crore as above and confirmed the addition for other parties amounting to Rs.2 crores. Hence, Revenue has filed this appeal.

4. Perusal of the aforesaid appeal filed by the Revenue apparently shows that the same is having low tax effect as per CBDT Circular No.17/2019 dated 8<sup>th</sup> August, 2019 vide which the Revenue has been directed not to prefer any appeal in case the tax effect is less than Rs.50,00,000/- and this factual position has been fairly conceded by the Ld. D.R.

3. We have heard the Id. DR of the Revenue on the issue in controversy and perused the material on record. Perusal of CBDT Circular (supra) shows that monetary limit for filing the appeal by the Department before the Tribunal, Hon'ble High Court and Hon'ble Supreme Court has been revised and the relevant portion of the aforesaid circular is extracted as under:

***“Subject : Further Enhancement of Monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court - Amendment to Circular 3 of 2018 -Measures for reducing litigation.***

***Reference is invited to the Circular No.3 of 2018 dated 11.07.2018 (the Circular) of Central Board of Direct Taxes (the Board) and its amendment dated 20th August, 2018 vide which monetary limits for filing of income tax appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court have been specified. Representation has also been received that an anomaly in the said circular at para 5 may be removed.***

***2. As a step towards further management of litigation, it has been decided by the Board that monetary limits for filing of appeals in income-tax cases be enhanced further through amendment in Para 3 of the Circular mentioned above and accordingly, the table for monetary limits specified in Para 3 of the Circular shall read as follows:***

<i>S. No.</i>	<i>Appeals/SLPs in Income-tax matters</i>	<i>Monetary Limit (in Rs)</i>
<i>1</i>	<i>Before Appellate Tribunal</i>	<i>50,00,000/-</i>
<i>2</i>	<i>Before High Court</i>	<i>1,00,00,000/-</i>
<i>3</i>	<i>Before Supreme Court</i>	<i>2,00,00,000/-</i>

**3. Further, with a view to provide parity in filing of appeals in scenarios where separate order is passed by higher appellate authorities for each assessment year vis-a-vis where composite order for more than one assessment years is passed. para 5 of the circular is substituted by the following para:**

***"5. The Assessing Officer shall calculate the tax effect separately for every assessment year in respect of the disputed issues in the case of every assessee. If, in the case of an assessee, the disputed issues arise in more than one assessment year, appeal can be filed in respect of such assessment year or years in which the tax effect in respect of the disputed issues exceeds the monetary limit specified in para 3. No appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. Further, even in the case of composite order of any High Court or appellate authority which involves more than one assessment year and common issues in more than one assessment year, no appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. In case where a composite order/ judgment involves more than one assessee. each assessee shall be dealt with separately."***

4. In view of the CBDT Circular No.17/2019 dated 8<sup>th</sup> August, 2019 having retrospective effect as coordinate Bench of the Tribunal in case of ***Dinesh Madhavlal Patel [TS-469-ITAT-2019(Ahd)] 2019-TIOL-1556-ITAT-AHM dated 14<sup>th</sup> August, 2019*** has already decided the issue as to the applicability of the captioned circular to the pending appeals in affirmative and what has been discussed above, we are of the considered view that the aforesaid appeals are not maintainable because of low tax effect i.e. less than

Rs.50,00,000/- hence, the aforesaid appeals filed by the Revenue are hereby dismissed having been become infructuous. However, in case, the present appeals are found to be maintainable at any stage for any technical reasons, the Department shall be at liberty to seek recall of this order under relevant provisions of law.

5. In the result, the appeal is dismissed.

**Order pronounced in the open court on this 7<sup>th</sup> day of July, 2022 after the conclusion of the hearing.**

**Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER**

**sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER**

**Dated the 7<sup>th</sup> day of July, 2022  
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)-2, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT  
NEW DELHI.**