

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

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No. 2224/Del/2019
(for Assessment Year : 2013-14)

JCIT (OSD) 2 nd Floor, ARTO Complex Sector – 33, Noida	Vs.	Starcity Buildcon Pvt. Ltd. D-35, Anand Vihar New Delhi
PAN No. AANCS 4279 F		
(APPELLANT)		(RESPONDENT)

Assessee by	Ms. Sweta Bansal, C.A.
Revenue by	Shri H. K. Choudhary, CIT-D.R.

Date of hearing:	04.08.2022
Date of Pronouncement:	04.08.2022

ORDER

PER ANIL CHATURVEDI, AM :

This appeal filed by the Revenue is directed against the order dated 30.11.2018 passed by the Commissioner of Income Tax (Appeals)-IV, New Delhi relating to Assessment Year 2013-14.

2. Revenue has raised the following grounds of appeals:

- i. *“Whether on facts and circumstances of the case and in law, the Ld. CIT (A) erred in applying the decision of the Hon’ble Supreme Court in the case of M/s Sinhgad Technical Education Society, which was distinguishable on the facts of the present case as the same pertained to prior period to 01.04.2005 whereas after 01.04.2005 153C notice can be*

issued when AO is satisfied that seized material has a bearing on the assessment of income of other person.

- ii. *Whether on facts and circumstances of the case and in law, the Ld. CIT(A) erred in law while holding that there was no incriminating material for the issuance of notice u/s 153C, without appreciating that in the satisfaction note, the AO had brought out the facts and circumstances, which indicated that the assessee has procure purchase bills from non-existing concerns/ person and entered into bogus transactions hence such documents constituted “incriminating material” for the purpose of the issue of notice u/s 153C in the context of assessee.*
- iii. *Whether on facts and circumstances of the case and in law, the Ld. CIT(A) erred in law while holding that there was no incriminating material for the issuance of notice u/s 153C, without appreciating that in the satisfaction note, the AO has clearly mentioned the seized documents relating to the bogus purchases and the Assessee himself admitted the fact and admitted undisclosed income to the tune of Rs. 30.00 Cr in the hands of group concerns/ entity including the assessee company.*
- iv. *Whether on facts and circumstances of the case and in law, the Ld. CIT(A) erred in not appreciating that after 01.04.2005 the test of issue of notice u/s 153C is availability of seized material which has bearing on assessment of income which has to be only in.nature of printa facie belief having live nexus & not in nature of absolute evidence based on detailed investigation.*
- v. *That the Appellant craves leave to add or amend any other more ground of Appeal as stated above as and when needs for doing so may arise.*
- vi. *The order of the Ld. CIT (A) is erroneous in law and on facts of the case and is liable to be set aside and the order of the AO be restored.”*

3. At the time of hearing Learned AR submitted that the tax effect in the present appeal of Revenue is less than the monetary

limit prescribed by CBDT for filing the appeal to which Learned DR fairly admitted that the tax effect is less than the monetary limit prescribed by CBDT for filing the appeal.

4. We have heard the rival submissions and perused the material on record. On perusing the grounds of appeal raised by the Revenue, we find that Revenue is aggrieved by the order of Learned CIT(A) in respect of the relief given by him. We find that CBDT vide Circular No. 3/2018 dated 11.07.2018 had increased the limit for filing appeal before ITAT at Rs. 20 lakhs. The limit for filing the appeal before ITAT and other authorities were enhanced by CBDT vide Circular No.17 of 2019 dated 08.08.2019. As per the aforesaid CBDT Circular dated 08.08.2019, no Department appeal is to be filed against relief given by the Learned CIT(A) before the Income Tax Appellate Tribunal unless the tax effect, excluding interest, exceeds Rs.50 lakhs. We find that in the present case, the tax effect involved is less than Rs.50 lakhs. In the absence of any material placed on record by the Revenue to demonstrate that the issue in the present appeal is covered by exceptions provided in para 10 of the aforesaid CBDT Circular of 11.07.2018, we are of the view that the monetary limit prescribed by the instructions of the CDBT Circular dated 08.08.2019 would be applicable to the present appeal of the Department. We therefore hold the present appeal of Revenue to be not maintainable on account of low tax effect. However, in case there is any error in the computation of the tax effect involved or if for any reason, the aforesaid CBDT Circular is not applicable, it

would be open to the Revenue to seek revival of the appeal. **Thus the appeal of the Revenue is dismissed.**

5. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on 04.08.2022, immediately after conclusion of the hearing of the matter in virtual mode.

**Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER**

**Sd/-
(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Date:- 04.08.2022

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Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI