

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "H": NEW DELHI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER
AND
SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 441/DEL/2020
Assessment Year: 2012-13**

ACIT, Circle-27(1), New Delhi.	<u>Vs</u>	Uttranchal Engineering Pvt. Ltd., 612-614, DLF Tower Block, Shivaji Marg, Moti Nagar, New Delhi. PAN- AAACU7490H
APPELLANT		RESPONDENT
Assessee represented by	None	
Department represented by	Ms. Sapna Bhatia, CIT(DR)	
Date of hearing	29.08.2023	
Date of pronouncement	29.08.2023	

ORDER

PER KUL BHARAT, JM:

This appeal, by the Revenue, is directed against the order of the learned Commissioner of Income-tax (Appeals)-10, New Delhi, dated 23.09.2019, pertaining to the assessment year 2012-13.

2. At the time of hearing no one attended the hearing on behalf of the assessee. Notices of hearing have been returned by the postal authorities. The assessee has not provided changed address, if any, to the Registry. Therefore, the appeal was taken up for hearing ex parte to the assessee.

3. The Revenue has filed an application seeking condonation of delay of 21 days in filing the present appeal. Learned DR reiterated the submissions as made in the application. For the reasons stated in the application the small delay of 21 days is hereby condoned and the appeal is taken up for hearing.

4. The only effective ground of appeal, reads as under:

“Whether on facts and in the circumstances of the case the Ld. CIT(A) is justified in deleting the addition of Rs. 1,21,47,484/- on account of unexplained share capital/premium, when the alleged investor companies do not have creditworthiness/profit generating apparatus.”

5. From the above ground it is clear that Revenue is challenging the deletion of addition of Rs. 1,21,47,484/-. However, in form no. 36, the tax effect is stated to be Rs. 98,14,612/-. On perusal of the assessment order it is noticed that the assessing authority had made addition of Rs. 3,02,50,000/- u/s 68. Learned CIT(A) allowed the appeal of the assessee, thereby he deleted the entire addition. As per the assessment record

there were two additions of Rs. 2,72,50,000/- made u/s 68 in respect of share capital and Rs. 30,00,000/- u/s 68 in respect of unexplained unsecured loan. However, in the ground of appeal the Revenue has assailed addition of Rs. 1,21,47,484/- made on account of unexplained share capital/premium. So, the challenge before us is limited to the extent of deletion of addition of Rs. 1,21,47,484/-. The learned DR could not refute that tax effect of this amount would be lower than Rs. 50,00,000/- and therefore, in view of CBDT Circular No. 17/2019 dated 8th August, 2019, revising the monetary limit for filing of the departmental appeals to the ITAT at Rs. 50 lakhs, the present appeal of the Revenue is not maintainable.

6. In view of the above factual position, the tax effect involved in the appeal being less than Rs. 50 lakhs, we deem it proper to dismiss the appeal of the Revenue in the light of the CBDT Circular No. 17/2019 dated 8th August, 2019, as not maintainable. However, if on a later date, the Revenue finds that the tax effect in dispute in the aforesaid appeal is more than the limit prescribed or it is protected by any of the exceptions provided in the CBDT Circular, it shall be at liberty to approach the Tribunal for recall of the order and reinstatement of the appeal for adjudication on merits. The Tribunal would consider such application, as per the extant law.

7. In view of the aforesaid discussion, the Revenue's appeal stands dismissed.

Order pronounced in open court on 29.08.2023.

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI

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