

आयकर अपीलीय अधिकरण  
कोलकाता 'C' पीठ, कोलकाता में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'C' BENCH, KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य  
एवं  
श्री संजय अवस्थी, लेखा सदस्य  
के समक्ष  
Before

SRI SANJAY GARG, JUDICIAL MEMBER  
&  
SRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No.: 1292/KOL/2024  
Assessment Year: 2012-13

*A.C.I.T, Central Cir-2(1), Kolkata* ..... *Appellant*

*Vs.*

*Matribhumi Developers Private Limited* ..... *Respondent*  
*4, Shyama Prasad Mukherjee Road,*  
*Kolkata-700025.*  
*(PAN: AAFCM0551J)*

**Appearances:**

**Appellant represented by :** *Shri Praveen Kishore, CIT, DR & Shri Ankur Goyal, Sr. DR*

**Respondent represented by :** *Shri S. K. Tulsiyan, Advocate & Ms. Lata Goyal, AR*

Date of concluding the hearing : December 18th, 2024

Date of pronouncing the order : December 18th, 2024

**ORDER**

**Per Sanjay Garg, Judicial Member:**

The present appeal filed by the Revenue is directed against the order dated 12.03.2024 of the Commissioner of Income Tax (Appeals), Kolkata-26 [hereinafter referred to as Ld. 'CIT(A)'] for Assessment Year 2012-13.

2. It is seen, at the outset, that the tax effect on the disputed additions before us is less than Rs. 60 lakh as prescribed in the CBDT's latest Circular No. 09/2024 dated 17.09.2024 for filing appeals by the Revenue before this Tribunal.

2.1. This circular prescribes that the revised monetary limits shall apply retrospectively to pending appeals as well.

3. The Ld. DR, however, has submitted that the case of the assessee is covered within the exception as provided under para 3.1(h) of the CBDT Circular No. 5 of 2024 dated 15.03.2024. The said clause (h) of the circular No. 5/2024 is reproduced as under:

*“h. Cases involving organized tax evasion including cases of bogus capital gain/loss through penny stocks and cases of accommodation entries, or”*

4. The Ld. Counsel for the assessee, however, has brought our attention to the impugned assessment order as well as the order of the Ld. CIT(A) to submit that there is no allegation or evidence in file that the this case involves organized tax evasion including case of bogus capital gain/loss through penny stocks and case of accommodation entries.

5. We have heard rival contentions and gone through the impugned assessment order as well as the order of the Ld. CIT(A). In this case, the Assessing Officer (hereinafter referred to as the “AO”) had noted that the assessee had received share capital at a huge share premium from certain share subscribers. He held that the assessee failed to corroborate the high value of share premium and creditworthiness of the share subscribers. The Ld. CIT(A), however, noted that out of the total addition made by the AO on account of share application money/share premium of Rs.1,67,00,000/-, the assessee had received only Rs.1,50,000/- during the year and that the remaining amount was received in earlier years. However, no addition was made in respect of the said share application/share premium in earlier years. Further, the Ld. CIT(A) has examined the financials and other documents furnished by the assessee in respect of all the six share subscribers and has further noted that the director of the assessee company had also appeared before the AO and further noted that all the share subscribers had duly

replied to the notices issued to them u/s. 133(6) of the Act. He finally concluded that the assessee had duly established the identity and creditworthiness of share subscribers and genuineness of the transaction.

6. Now, revenue has come in appeal mainly on the ground that the Ld. CIT(A) while holding that out of total share application/share premium received Rs.1,67,00,000/- the assessee had received Rs.1,65,50,000/- in earlier years, has not given opportunity to the AO for examining this evidence and submissions. The facts of the case and issue involved do not suggest that this case can be said to be covered within the afore reproduced exception clause 3.1(h) of the CBDT Circular. Therefore, this appeal is not maintainable because of the low tax effect in view of the monetary limit prescribed by the CBDT vide Circular No. 09/2024 u/s. 268A of the Act.

7. In view of above stated position, the appeal of the Revenue is dismissed u/s 268A of the Act because of low tax effect than the prescribed limits as per CBDT Circular No. 09/2024 (*supra*).

8. In the result, appeal of the revenue is dismissed.

**Order pronounced in the open Court.**

*Sd/-*  
**[Sanjay Awasthi]**  
Accountant Member

*Sd/-*  
**[Sanjay Garg]**  
Judicial Member

Dated: 18.12.2024

*Jd., Sr.P.S)*

*Copy of the order forwarded to:*

1. **Appellant – ACIT, Central Circle-2(1), Kolkata.**
2. **Respondent – Matribhumi Developers Pvt. Ltd.**
3. CIT(A), Kolkata-26
4. Pr. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

*// True copy //*

By order  
Assistant Registrar  
ITAT, Kolkata Benches