



ITA No.7204/Mum/2018
M/s. Enhance Ambient Communications Pvt. Ltd.
Assessment Year :2010-11

आयकर अपीलीय अधिकरण “ई” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“E” BENCH, MUMBAI

माननीय श्री सी. एन. प्रसाद, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI C.N. PRASAD, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ I.T.A. No.7204/Mum/2018
(निर्धारण वर्ष / Assessment Year:2009-10)

ACIT-6(2)(2) Room No.504 Aaykar Bhavan M.K. Road Mumbai-400 020.	बनाम/ Vs.	M/s. Enhance Ambient Communication Pvt. Ltd. 314, 3 rd Floor, Jolly Bhavan No.1 10, New Marine Lines Churchgate, Mumbai
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AABCE-6766-H		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	None
Revenue by	:	Shri Amit Pratap Singh-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	09/12/2019
घोषणा की तारीख / Date of Pronouncement	:	09/12/2019

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment Year [in short referred to as ‘AY’] 2009-10 contest the order of Ld. Commissioner of Income-Tax (Appeals)-12, Mumbai, [in short referred to as ‘CIT(A)’], *Appeal No. CIT(A)-12/DCIT-6(2)(2)/B2-140/15-16* dated 11/09/2018 *qua* deletion of penalty u/s 271(1)(c) for Rs.24,190/- in respect of disallowance of Rs.78,283/- made in the assessment order on account of bogus



purchases. The stated penalty was imposed by Ld. Assessing Officer vide order dated 29/09/2015 but the same was deleted by first appellate authority, finding merits in assessee's submissions. Aggrieved, the revenue is in further appeal before us.

2. At the time of hearing, none appeared for assessee and no valid adjournment application is on record. Therefore, the matter was proceeded with *ex-parte qua* the assessee in view of the fact that the quantum of penalty being contested by revenue is less than monetary limit of Rs. 50 Lacs as prescribed by CBDT in its recently issued Circular No.17/2019 dated 08/08/2019 [F.No.279/Misc.142/2007-TTJ(Pt.) Government of India, Ministry of Finance, Department of Revenue] and therefore, the appeal is not maintainable in terms of the said circular. The Ld. DR was unable to point out any exception which would suggest that the benefit of said circular would not be applicable to factual matrix.

3. Upon perusal of case records, *prima facie*, it appears that the tax effect of quantum of penalty being contested by the revenue is less than prescribed limit of Rs.50 Lacs and the same is covered by recently issued *low tax effect* Circular No.17/2019 dated 08/08/2019 issued by *Central Board of Direct Taxes [CBDT]*. This recent circular further enhances the monetary limit fixed in earlier Circular No.3 of 2018 dated 11/07/2018 issued by CBDT as amended on 20/08/2018. Undisputedly, the factual matrix is not covered by any of the exceptions as provided in para-10 of Circular no. 3 of 2018 dated 11/07/2018. The aforesaid limits, as per *para 13* of the Circular no. 3 of 2018 dated 11/07/2018, applies to pending appeals also. In view of the admitted position, we dismiss the revenue's appeal.



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4. At the same time, a liberty is given to revenue to seek recall of the appeal, if at a later stage, it is found that the matter is covered by any exceptions provided in any of the circular or in case the tax effect as agitated by revenue exceeds the prescribed monetary limit.

5. In the result, the appeal stands dismissed.

Order pronounced in the open court on 09th December, 2019.

Sd/-

(C.N. Prasad)

न्यायिक सदस्य / **Judicial Member**

मुंबई Mumbai; दिनांक Dated : 09/12/2019

Sr.PS, Jaisy Varghese

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.