



ITA No.5787-88/Mum/2018
Gautam Ashok Varshney
Assessment Years: 2010-11 & 2011-12

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

माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य
एवं माननीय श्री रवीश सूद, न्यायिक सदस्य के समक्ष।
BEFORE HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON’BLE SHRI RAVISH SOOD, JM

आयकर अपील सं./ I.T.A. No.5788/Mum/2018
(निर्धारण वर्ष / Assessment Year:2010-11)

&

आयकर अपील सं./ I.T.A. No.5787/Mum/2018
(निर्धारण वर्ष / Assessment Year:2011-12)

Income tax Officer-31(1)(5) Room No.307, C-13, 3 rd Floor B.K.C. Bandra (E) Mumbai-51.	बनाम/ Vs.	Shri Gautam Ashok Varshney A-45/102 Gurukrupa Co-op Hsg. Society Gokuldharm Film City Road, Goregaon(E), Mumbai-400 063
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. ADJPV-4597-M		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	None
Revenue by	:	Shri N.Padnabhan-Sr.DR

सुनवाई की तारीख/ Date of Hearing	:	06/01/2020
घोषणा की तारीख / Date of Pronouncement	:	06/01/2020

आदेश / ORDER

Per Bench:

1. Aforesaid appeals by revenue for Assessment Years [in short referred to as ‘AY’] 2010-11 and 2011-12 contest common order of Ld. Commissioner of Income-Tax (Appeals)-42, Mumbai, [in short referred to as ‘CIT(A)’], *Appeal No.CIT(A)-42/IT-315/16-17 and CIT(A)-42/IT-*



314/16-17 dated 21/06/2018. In the said appeal, Ld. CIT(A) has deleted penalty of Rs.28,595/- & Rs.50,683/- for AYs 2010-11 & 2011-12 respectively as levied by Ld. AO u/s 271(1)(c) vide separate penalty orders dated 28/09/2016. Upon perusal of penalty order passed by Ld. AO, it is evident that penalty was levied on account of estimated additions against *alleged bogus purchases*.

2. None has appeared for assessee and no valid adjournment application is on record. Therefore, the matter was proceeded with *ex-parte qua* the assessee since the revenue's appeals are, *prima facie*, covered by latest low tax effect Circular No.17/2019 dated 08/08/2019 [F.No.279/Misc. 142/2007-TTJ(Pt.) issued by CBDT.

3. The Ld. DR submitted that the penalty was levied on account of *alleged bogus purchases* as per information received from Sales Tax Department, Maharashtra and therefore, the appeal would be covered by exception given in the said circular.

4. 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 in both the years 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. So far as the contentions raised by Ld. DR are concerned, we are of the considered opinion that quantum proceedings and penalty proceedings were separate proceedings and the circular would apply to each proceeding separately. No separate exception has been provided in any



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of the circular with respect to quantum of penalty. In view of the same, we dismiss both the appeal.

5. At the same time, a liberty is given to revenue to seek recall of any 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.

6. In the result, both the appeals stand dismissed.

Order pronounced in the open court on 06th January, 2020.

Sd/-

(Ravish Sood)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 06/01/2020

Sr.PS, Jaisy Varghese

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.