



ITA No.5732/Mum/2018
Babu Venkety Gosula
Assessment Year :2009-10

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

माननीय श्री महावीर सिंह, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ I.T.A. No.5732/Mum/2018
(निर्धारण वर्ष / Assessment Year: 2009-10)

Income tax Officer-27(1)(2) Tower No.6, 4th Floor Room No.407 Vashi Railway Station Complex, Vashi, Navi Mumbai	बनाम/ Vs.	Shri Babu Venkety Gosula 308 Shree Saidham CHS Ltd. Tilak Road, Ghatkopar (E) Mumbai- 400 077.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AACPG-9004-E		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	None
Revenue by	:	Ms. Kavita P. Kaushik-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	14/01/2020
घोषणा की तारीख / Date of Pronouncement	:	14/01/2020

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. In the aforesaid appeal for Assessment Year (AY) 2009-10, the revenue is aggrieved by deletion of penalty of Rs.60,211/- by learned first appellate authority. The penalty under dispute was levied by Ld. AO vide penalty order dated 29/09/2015 against estimated additions @ 12.5% of 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 in view of the fact that the appeal is covered by low tax effect Circular No.17/2019 dated 08/08/2019 issued by Central Board of Direct Taxes [CBDT].

3. Upon perusal of case records, it transpires that the quantum of penalty under dispute, being contested by the revenue, is less than prescribed limit of Rs.50 Lacs and the appeal 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. The Ld. DR has submitted that quantum additions were made pursuant to receipt of certain information from an external agency viz. Sales Tax Department and therefore, the appeal would be covered by the exceptions provided under the circular. However, we are of the considered opinion that quantum proceedings and penalty proceedings are separate proceedings and the circular would apply to each proceeding separately. No separate exception has been provided in any of the circular with respect to quantum of penalty. In view of the same, we dismiss the appeal.

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.



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5. In the result, the appeal stands dismissed.

Order pronounced in the open court on 14th January,2020.

Sd/-

(Mahavir Singh)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 14/01/2020

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.