

**IN THE INCOME TAX APPELLATE TRIBUNAL "B", BENCH
MUMBAI**

**BEFORE SHRI MAHAVIR SINGH, JM
&
SHRI M.BALAGANESH, AM**

**ITA No.5645/Mum/2018
(Assessment Year :2011-12)**

ITO-5(1)(2), R.No.570 5 th Floor, Aayakar Bhavan M.K.Road, Mumbai – 400 020	Vs.	M/s. Bhuwal Insulation Cable Pvt. Ltd., 102, Narayan Building 2 nd Floor, Ardeshir Dady Street, Near CP Tank Circle, Mumbai – 400 004
PAN/GIR No.AACCB7374B		
(Appellant)	..	(Respondent)

Revenue by	Ms. Kavita P Kaushik
Assessee by	None
Date of Hearing	08/01/2020
Date of Pronouncement	15/01/2020

आदेश / ORDER

PER M. BALAGANESH (A.M):

This appeal in ITA No.5645/Mum/2018 for A.Y.2011-12 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-10, Mumbai in appeal No.CIT(A)-10, Mumbai/10921/2016-17 dated 01/06/2018 (Id. CIT(A) in short) in the matter of imposition of penalty u/s.271(1)(c) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act').

2. The only issue to be decided in this appeal of the revenue is as to whether the Id. CIT(A) was justified in deleting the levy of penalty u/s.271(1)(c) of the Act in respect of disallowance made on account of bogus purchases on estimated basis.

3. None appeared on behalf of the assessee. We have heard the Id. DR and perused the materials available on record. We find that the assessment was completed u/s.143(3) r.w.s. 147 of the Act on 19/02/2016 wherein the addition was made on account of bogus purchases. Penalty proceedings u/s.271(1)(c) of the Act were initiated on 29/07/2016 for the same and penalty was levied for Rs.84,744/- by the Id. AO. We find that the addition made on account of bogus purchases was made on estimated basis @12.5% on the value of alleged purchases. We find that the Id. CIT(A) had deleted the penalty on the ground that penalty was levied on addition which was made on an estimated basis. This fact is not in dispute before us. We find that the Id. CIT(A) had also placed reliance on the decision of this Tribunal in the case of Deepak Gogri vs. ITO in ITA No.1396/Mum/2018 dated 23/11/2017 among other decisions to support the said proposition. We do not find any infirmity in the said reasoning of the Id. CIT(A) in deleting the penalty. Accordingly, the grounds raised by the revenue are dismissed.

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

Order pronounced in the open court on this 15/01/2020

Sd/-
(MAHAVIR SINGH)
JUDICIAL MEMBER

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 15/01/2020
KARUNA, *sr.ps*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai