



ITA No.7525/Mum/2018 & Co No.251/Mum/2019  
Bajranglal Bhikaram Mittal  
Assessment Year :2010-11

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

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

आयकर अपील सं./ I.T.A. No.7525/Mum/2018  
(निर्धारण वर्ष / Assessment Year: 2010-11)

<b>ACIT-17(1)</b> R.No.117, Aaykar Bhavan M.K. Road Mumbai- 400 020.	<b>बनाम</b> / Vs.	<b>Bajranglal B. Mittal</b> 310, Gokul 80-A, Baroda Street Mumbai – 400 009
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. <b>AFGPM-0965-R</b>		
(□ पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

&

CO No. 251/Mum/2019  
(Arising out of ITA No. 7525/Mum/2018)  
(निर्धारण वर्ष / Assessment Year: 2010-11)

<b>Bajranglal B. Mittal</b> 310, Gokul 80-A, Baroda Street Mumbai – 400 009	<b>बनाम</b> / Vs.	<b>ACIT-17(1)</b> R.No.117, Aaykar Bhavan M.K. Road Mumbai- 400 020.
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. <b>AFGPM-0965-R</b>		
(□ पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	Dr. Y.P.Trivedi (Sr. Advocate) & Ms. Usha Dalal – Ld. AR
<b>Revenue by</b>	:	Ms. Kavita P. Kaushik-Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	22/01/2020
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	05/02/2020



## आदेश / O R D E R

### **Manoj Kumar Aggarwal (Accountant Member)**

1.1 Aforesaid appeal by revenue for Assessment Year [in short referred to as 'AY'] 2010-11 contest the order of Ld. Commissioner of Income-Tax (Appeals)-55, Mumbai, [in short referred to as 'CIT(A)'], Appeal No. CIT(A)-55/ACIT-17(1)/IT-450/17-18 dated 23/08/2018 qua certain relief on account of *alleged bogus purchases*.

1.2 The assessee, upon receipt of notice of hearing, has filed cross-objections against the same, *inter-alia*, on the ground that since the assessee's appeal on same issue has already been adjudicated by the Tribunal, the present appeal has become *functus officio*. The assessee has also pleaded that the revenue's appeal is liable to be dismissed in terms of low tax effect circular issued by CBDT on 08/08/2019.

1.3 A delay of 5 days has been noted in assessee's cross-objections, the condonation of which has sought by the assessee on the strength of condonation petition dated 22/11/2019 which is accompanied by the affidavit of the assessee. The delay has been attributed to ill-health of the assessee. Keeping in view the quantum of delay, the bench formed an opinion that the delay was to be condoned and the matter was to be proceeded with on merits.

2. The Ld. Sr. Advocate, drawing our attention to the grounds of cross-objections, placed on record the decision of this Tribunal in assessee's appeal ITA No.5522/M/2018 for AY 2010-11, common order dated 30/04/2019 wherein the Tribunal has reduced the estimated additions to 4% and allowed partial relief to the assessee. In the above



ITA No.7525/Mum/2018 & Co No.251/Mum/2019  
Bajranglal Bhikaram Mittal  
Assessment Year :2010-11

background, it was submitted that since a view has already been taken by the bench in the matter, the revenue's appeal is liable to be dismissed. The Ld. DR could not controvert the position that the matter of estimation has already been delved upon by the Tribunal in assessee's appeal.

3. In view of the admitted position, since a view has already been taken by the Tribunal in the matter, we dismiss the revenue's appeal. Resultantly, the other plea that the revenue's appeal is covered by low tax effect circular issued by CBDT would become *infructuous*. The cross-objections stand partly allowed.

4. Finally, the revenue's appeal stands dismissed whereas the assessee's cross-objections stand partly allowed.

*Order pronounced in the open court on 05<sup>th</sup> February, 2020.*

<b>Sd/-</b> <b>(Mahavir Singh)</b> उपाध्यक्ष / <b>Vice President</b>	<b>Sd/-</b> <b>(Manoj Kumar Aggarwal)</b> लेखा सदस्य / <b>Accountant Member</b>
--	---

मुंबई Mumbai; दिनांक Dated : 05/02/2020

*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.**