

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

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND
SHRI S. RIFAUR RAHMAN, HON'BLE ACCOUNTANT MEMBER**

**ITA Nos. 603 & 604/MUM/2019
(A.Ys: 2010-11 & 2011-12)**

Income Tax Officer – 31(1)(4) R.No. 305D, C-13, 3 rd Floor Bandra Kurla Complex Bandra (E), Mumbai - 400 051	v.	M/s. Fancy Wear 12, Megh, 12 th Floor Film City Road, Goregaon (E) Mumbai - 400063 PAN: AACFF0727F
(Appellant)		(Respondent)

Assessee by : Mrs Bindu Shah
Department by : Ms Samatha Mullamudi

Date of hearing : 25.02.2020
Date of pronouncement : 25.02.2020

ORDER

PER BENCH

These appeals are filed by the revenue against common order of the Learned Commissioner of Income Tax (Appeals)-42, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 30.10.2018 for the A.Y. 2010-11 and A.Y. 2011-12 in deleting the penalty levied u/s. 271(1)(c) of the Act.

2. The Revenue in its appeals has raised following common grounds:

"1. *Whether on the facts and in the circumstances of the case, the Ld.CIT(A) is correct in holding that the addition was made purely on estimate basis ignoring the fact that the assessee have furnished inaccurate particulars of income as the assessee failed to reconcile the purchases and no genuine explanation was offered for failure.*"

2. *Whether on the facts and in the circumstances of the case, the Ld.CIT(A) has erred in ignoring the fact that it was statutory duty of the assessee to declare its true income, on the contrary, the assessee inflated purchases with the malafide intention to reduce the tax liability.*"

3. At the time of hearing, Ld. AR submitted that tax effect on the issue in the present appeals is below ₹.50 Lacs and in view of the CBDT Circular No. 17/2019 dated 08.08.2019 in F.No.279/Misc.142/2007-ITJ (Pt), the appeals of the Revenue are not maintainable.

4. On the other hand, Ld. DR submitted that these appeals are filed against deletion of penalty of ₹.42,47,010/- and ₹.37,09,657/- levied u/s.271(1)(c) of the Act on the disallowance made towards bogus purchases for the A.Y.2010-11 and A.Y. 2011-12 respectively.

5. We have heard the rival submissions, perused the grounds of appeal in these appeals and the orders of the authorities below. We find that the tax effect in both these appeals is less than ₹.50 Lakhs and therefore the appeals of the revenue are not maintainable on account of low tax effect in view of the CBDT Circular No. 17/2019 dated 08.08.2019. We also observed that since the issue is in respect of levy of penalty

u/s.271(1)(c) of the Act none of the exception in the circular are applicable.

Hence these appeals are not maintainable.

6. In the result, appeals of the revenue are dismissed.

Order Pronounced in the Open Court on the 25th February, 2020

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER
Mumbai / Dated 25/02/2020
Giridhar, Sr.PS

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

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, Mum