

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

**[Coram: Justice P P Bhatt (President) and
Pramod Kumar (Vice President)]**

ITA No. 5335/Mum/2018
Assessment year: 2011-12

**Income Tax Officer
Ward 1(4), Mumbai**

.....Appellant

Vs

Jagjit Singh Nirmal Singh Khaberwal
*N S Industries, 401 Green Park
Yogi Hills, B R Road, Mulund
Mumbai 400 080 [PAN: AMAPK5312P]*

.....Respondent

Appearances by

Vinay Sheel Gautam *for the appellant*
Subodh Ratnaparkhi *for the respondent*

Date of concluding the hearing: : December 19,2019
Date of pronouncement : March 12,2020

ORDER

Per Bench:

1. This appeal, filed by the Assessing Officer, is directed against the order dated 29th June 2018 passed by the CIT(A) in the matter of penalty under section 271(1)(c) of the Income Tax Act, 1961, for the assessment year 2011-12.
2. Grievance of the appellant, in substance, is that the learned CIT(A) erred in deleting the penalty of Rs 81,486 imposed on the assessee under section 271(1)(c) of the Act.
3. As learned representatives fairly agree, learned CI(A) has deleted the impugned additions by following various orders of the coordinate benches holding that a penalty under section 271(1)(c) will not hold good in law where alleged additions on account of bogus purchases has been only partly confirmed by the CIT(A), entirely based on estimation. Learned Departmental Representative accepts this factual position but relies upon the order of the Assessing Officer nevertheless. In view of the smallness of amount, and view of direct decisions of the coordinate benches in favour of the assessee on the same point, he does not

pursue the matter further beyond placing reliance, and somewhat bland reliance, on the stand of the Assessing Officer.

4. In view of the above positions, looking to the smallness of amount and looking to a large number of judicial precedents in favour of the assessee, on materially similar facts, we see no need to interfere in the matter. We approve the conclusions arrived at by the learned CIT(A) and decline to interfere in the matter.

5. In the result, the appeal is dismissed. Order pronounced under rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1962, by placing the list of pronouncements being placed on the notice board.

Sd/-

Justice P P Bhatt
(President)

Sd/-

Pramod Kumar
(Vice President)

Mumbai, dated the 12th day of March, 2020

Copies to:

(1)	<i>The appellant</i>	(2)	<i>The respondent</i>
(3)	<i>CIT</i>	(4)	<i>CIT(A)</i>
(5)	<i>DR</i>	(6)	<i>Guard File</i>

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Mumbai benches, Mumbai*