



ITA No.572/Mum/2019
M/s. JMS Interiors Private Limited
Assessment Year :2009-10

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

माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य
एवं माननीय श्री रवीश सूद, न्यायिक सदस्य के समक्ष।
BEFORE HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON’BLE SHRI RAVISH SOOD, JM
(Hearing Through Video Conferencing Mode)

आयकरअपील सं./ I.T.A. No.572/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2009-10)

DCIT-Circle-5(2)(1) Room No.525, Aaykar Bhavan, M.K. Road, Mumbai-400 020	बनाम/ Vs.	M/s. JMS Interiors Private Ltd. 31, Navyug, Bldg. No.02 Forjet Hill Road Tardeo, Mumbai-400 051.
स्थायीलेखासं./जीआइआरसं./ PAN/GIR No. AAACJ-7307-C		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	None
Revenue by	:	Ms. Samatha Mullamudi - Ld.Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	29/10/2020
घोषणा की तारीख / Date of Pronouncement	:	29/10/2020

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment Year [in short referred to as ‘AY’] 2009-10 contest the order of Ld. Commissioner of Income-Tax (Appeals)-10, Mumbai, [in short referred to as ‘CIT(A)’], Appeal No. CIT(A)-10/DC-5(2)91/426/2015-16 dated 30/10/2018 on following grounds: -



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"Whether on the facts and in the circumstance of the case and in law the Ld.CIT(A) erred in deleting the penalty levied on disallowance made on account of bogus purchases without appreciating that the assessee has failed to establish genuineness of the purchases especially when notice u/s 133(6) issued by the A.O. was received un-served and therefore it is clear case of furnishing inaccurate particulars of income within the meaning of section 271(l)(c) of the IT Act 1961."

As evident, the revenue is aggrieved by the deletion of penalty of Rs.1,82,348/- as levied by Ld. Assessing Officer [AO] u/s. 271(1)(c) vide order dated 23/09/2015. Although none appeared for assessee during hearing before us, however, the material on record is quite sufficient to dispose-off the appeal and therefore, we proceed to adjudicate the same after hearing Ld. Sr. DR. who pleaded for confirmation of penalty as levied by the Ld. AO.

2. Facts on record would reveal that an assessment was framed against the assessee for the year under consideration on 27/03/2015 u/s. 143(3) r.w.s. 147 r.w.s. 254 wherein the assessee was saddled with estimated addition of Rs.5.52 Lacs u/s. 69C, being 12.5% of certain suspicious purchases stated to be made by the assessee from two entities. These entities were listed as suspicious dealers by Sales tax Department, Maharashtra. Notices issued u/s. 133(6) to confirm the transactions elicited no response. Although, in support of purchase transactions, the assessee filed various documentary evidences like purchase bills etc. and submitted that the payment to suppliers were through banking channels, however, the submissions could not find favor with Ld. AO who estimated additions of 12.5% against these purchases. The assessee has not contested the quantum additions any further.



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3. Consequently, penalty proceedings u/s. 271(1)(c) were initiated against the assessee for furnishing inaccurate particulars of income and ultimately the assessee was saddled with a penalty of Rs.1,82,348/- vide order dated 23/09/2019. Upon further appeal, Ld. CIT(A) deleted the same by observing that the assessee offered explanation which was not accepted by Ld. AO. However, there must be some corroborative material to show that the assessee had filed inaccurate particulars of income. The assessee was in possession of vital evidence to prima-facie substantiate the purchase transactions. The assessee offered explanation which was bona-fide and coupled with documentary evidences. Therefore except for rejection of explanation furnished by assessee, there was no material to substantiate the fact of concealment of income. Further the additions were made purely on estimated basis. In the said background, it was held that penalty was uncalled for. Aggrieved Revenue is in further appeal before us.

4. Upon careful consideration, we find that the impugned order would not require any interference on our part for two reasons. Firstly, we concur with the proposition that no penalty could be levied for concealment of income wherein the additions were merely estimated addition. Secondly, the quantum of penalty being disputed by the revenue is below threshold limit of Rs.50 Lacs and therefore, the appeal is not maintainable in terms of latest low tax effect Circular No. 17/2019 dated 08/08/2019 [F.No.279/Misc. 142/2007-TTJ(Pt.) issued by 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



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20/08/2018. Thus, viewing from any angle, the revenue's appeal stands dismissed.

5. Resultantly, the appeal stands dismissed.

Order pronounced in the open court on 29th October, 2020.

Sd/-

(Ravish Sood)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 29/10/2020
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.