

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

माननीय श्री शक्तिजी दे, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI SAKTIJIT DEY, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing Through Video Conferencing Mode)

आयकर अपील सं./ I.T.A. No.4031/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2009-10)

ACIT-31(3) , Mumbai Room No.623, 6 th Floor Kautilya Bhavan, Near Videsh Bhavan Bandra Kurla Complex, Bandra (East) Mumbai-400 051.	बनाम/ Vs.	M/s. VNC Infraprojects 29/B, 1 st Floor, Panchratna Building S.V. Road, Goregaon (W) Mumbai-400 090.
PAN/GIR No. AAPFM-1184-L		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Ramniklal U. Jain-Ld. AR
Revenue by	:	Shri Chintamani Dingankar-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	25/11/2020
घोषणा की तारीख / Date of Pronouncement	:	25/11/2020

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. The revenue challenges the order of Ld. first appellate authority for Assessment Year 2009-10. The impugned order has deleted the penalty of Rs.2.07 Lacs as levied by Ld. AO u/s 271(1)(c) vide order dated 29/03/2017.
2. The material facts are that an assessment was framed for the year under consideration u/s 143(3) on 24/03/2014 wherein the assessee was

saddled with addition of Rs.83.83 Lacs on account of *alleged bogus purchases*. Upon further appeal, Ld. first appellate authority restricted the additions to 8% of these purchases.

3. Consequently, penalty proceedings were initiated against the assessee u/s 271(1)(c) and a penalty of Rs.2.07 Lacs was levied by Ld. AO vide order dated 29/03/2017. The assessee challenged the same before first appellate authority. The Ld. CIT(A) observed that the quantum additions were altered in a significant way and the additions were purely on estimated basis and therefore the penalty was to be canceled. Aggrieved, the revenue is in further appeal before us.

4. We find that the appeal is not maintainable for two reasons. Firstly, the additions against which the penalty was levied were merely on estimated basis and therefore, it could not be said that the assessee concealed its income or furnished inaccurate particulars of income. Secondly, 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 20/08/2018. Viewing from any angle, the appeal stands dismissed.

5. The appeal stands dismissed.

Order pronounced on 25th November, 2020.

Sd/-
(Saktijit Dey)

न्यायिक सदस्य / **Judicial Member**

Sd/-
(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

आदेश की प्रतिलिपि ँ ग्रेषित/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/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.