

THE INCOME TAX APPELLATE TRIBUNAL
"B" Bench, Mumbai
Shri Shamim Yahya (AM) & Shri Ramlal Negi (JM)

I.T.A. No. 5054/Mum/2018 (Assessment Year 2010-11)
I.T.A. No. 5056/Mum/2018 (Assessment Year 2012-13)
I.T.A. No. 5058/Mum/2018 (Assessment Year 2014-15)

DCIT, CC-4(3) Room No. 1921 Air India Building 19 th Floor Nariman Point Mumbai-400 021.	Vs.	Shri Nilesh M. Agarwal 1A-303, N.G. Sun City Phase-III, Thkakar Village, Kandivali-East Mumbai-400 101. PAN : AAQPA2297P
(Appellant)		(Respondent)

Assessee by	None
Department by	Shri H.N. Singh
Date of Hearing	19.11.2020
Date of Pronouncement	26.11.2020

ORDER

Per Shamim Yahya (AM) :-

These are appeals by the Revenue directed against respective order of learned Commissioner of Income Tax (Appeals) [in short learned CIT(A)] for concerned assessment year as above.

2. The grounds of appeals read as under :-

ITA No. 5054/Mum/2018 for A.Y. 2010-11 :-

1. On the facts and in the circumstances of the case in law, the Ld. CIT(A) has erred in restricting the disallowance at 20% instead of 30% without giving any basis regarding unexplained purchase transaction.

2. On the facts and in the circumstances of the case in law, the Ld. CIT(A) has erred in deleting the disallowance of Rs. 4,05,303/- made by the AO on account of loss in Bharat Enterprises without considering the facts that the assessee had failed to prove the genuineness of purchases and sales.

ITA No. 5056/Mum/2018 for A.Y. 2012-13 :-

1. On the facts and in the circumstances of the case in law, the Ld. CIT(A) has erred in restricting the disallowance at 20% instead of 30% without giving any basis regarding unexplained purchase transaction.

2. On the facts and in the circumstances of the case in law, the Ld. CIT(A) has erred in deleting the disallowance of Rs. 9,96,329/- made by the AO on account of loss in Bharat Enterprises without considering the facts that the assessee had failed to prove the genuineness of purchases and sales.

ITA No. 5058/Mum/2018 for A.Y. 2014-15 :-

1. On the facts and in the circumstances of the case in law, the Ld. CIT(A) has erred in restricting the disallowance at 20% instead of 30% without giving any basis regarding unexplained purchase transaction.

2. On the facts and in the circumstances of the case in law, the Ld. CIT(A) has erred in deleting the addition of Rs. 2,03,952/- ignoring the facts that the history of the assessee was regularly bringing in books of accounts the unaccounted funds through various ways and evading legitimate taxes.

3. The relief granted by learned CIT(A) in ground No. 1 in these appeals is as under :-

2010-11 :	10% of 13,30,11,677 =	Rs. 1,33,01,167
2012-13 :	10% of 11,06,66,024 =	Rs. 1,10,66,602
2014-15 :	10% of 13,30,11,677 =	Rs. 1,33,01,167

4. At the outset it is noted that the tax effect in each appeal is below the limit of Rs. 50 lakhs fixed by the CBDT vide latest circular No. 17/2019 dated 8.8.2019 for filing the appeal before the ITAT. Hence, these appeals by the Revenue are not maintainable.

5. Per contra, learned Departmental Representative could not dispute that the tax effect is below the said limit. He could not point out that the appeals fall in any of the exceptions carved in said circular.

6. Upon careful consideration, we find that as the tax effect is below the limit fixed by the CBDT for filing the appeals before the ITAT. Hence, these appeals by the Revenue are liable to be dismissed in limine.

7. Accordingly, these appeals stand dismissed as such.

Order pronounced under Rule 34(4) of the ITAT Rules by placing the result on notice board on 26.11.2020.

Sd/-
(RAMLAL NEGI)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 26/11/2020

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai

PS