

**IN THE INCOME TAX APPELLATE TRIBUNAL (VIRTUAL COURT),
'B' BENCH MUMBAI**

BEFORE SHRI MAHAVIR SINGH, VP

&

SHRI M.BALAGANESH, AM

**ITA No.5256/Mum/2019
(Assessment Year :2009-10)**

**ITA No.5257/Mum/2019
(Assessment Year :2010-11)**

&

**ITA No.5258/Mum/2019
(Assessment Year :2011-12)**

ITO-5(1)(2) R.No.570, 5 th Floor Aayakar Bhavan M.K.Road, Mumbai – 400 020	Vs.	M/s. Bharat Bright Bars Pvt. Ltd., Block No.4, 1 st Floor Saraswat Bhawan Lamington Road Mumbai – 400 007
PAN/GIR No.AACCM2937R		
(Appellant)	..	(Respondent)

Revenue by	Shri Tharian Oommen
Assessee by	Shri Bharat Kumar
Date of Hearing	08/02/2021
Date of Pronouncement	25/02/2021

आदेश / O R D E R

PER MAHAVIR SINGH, VP:

These appeals in ITA Nos.5256/Mum/2019, 5257/Mum/2019 & 5258/Mum/2019 for A.Y.2009-10, 2010-11 & 2011-12 arise out of the order by the Id. Commissioner of Income Tax (Appeals)-10, Mumbai in appeal No. CIT(A)-10,Mumbai/10033/2018-19, CIT(A)-

10,Mumbai/10034/2018-19 & CIT(A)-10, Mumbai/10035/2018-19 dated 10/05/2019 (Id. CIT(A) in short) in the matter of imposition of penalty u/s.271(1)(c) of the Income Tax Act, 1961 (hereinafter referred to as Act).

Common issues are involved in all the appeals, hence they are taken up together and disposed off by this order for the sake of convenience.

2. The only identical issue involved in all these appeals is as to whether the Id. CIT(A) was justified in deleting the penalty levied on account of addition made on an estimated basis towards bogus purchases.

3. We have heard rival submissions and perused the materials available on record. We find that assessee is a company engaged in the business of processing and manufacturing of bright steel bars. We find that the Id. AO had made an addition on account of bogus purchases on an estimated basis @35% which was reduced to 12.5% by the Id. CIT(A) for all the assessment years under consideration. Thereafter, the Id. AO levied penalty on the additions sustained @12.5% of value of purchases. We find that the Id. CIT(A) had given a categorical finding that except for rejection of the explanation furnished by the assessee, there is absolutely no material to sustain the plea of concealment. We find that the Id. CIT(A) deleted the penalty on the ground that the addition was made only on an estimated basis.

4. Aggrieved, the Revenue is in appeal before us.

5. We find that on the quantum addition restricted to 12.5% by the Id. CIT(A), Revenue had come up in appeal before this Tribunal and this Tribunal had confirmed the stand taken by the Id. CIT(A). We hold that no penalty could survive on an addition made on estimated basis. Reliance in this regard is placed on the Co-ordinate Bench decision of this Tribunal in the case of ITO vs. Madhuben Prakash Parekh in ITA No.350/Mum/2019 for A.Y.2010-11 dated 29/01/2020. Accordingly, the grounds raised by the Revenue are dismissed.

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

Order pronounced on 25/02/2021 by way of proper mentioning in the notice board.

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT

Mumbai; Dated 25/02/2021
KARUNA, *sr.ps*

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, Mumbai