

आयकर अपीलिय अधिकरण “बी” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, MUMBAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VP AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing through Video Conferencing Mode)

आयकर अपील सं./ I.T.A. No.5487/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2011-12)

Pr.CIT- 9(2)(1) Room No.655A, 6 th Floor Aaykar Bhawan, M.K.Road Mumbai-400 020	बनाम / Vs.	M/s. Benchmark Computer Solution Pvt. Ltd. Unit-2, Second Floor, Jyoti Wire House Plot No.23A, Shah Industrial Estate Veera Desai Road, Andheri (W) Mumbai-400 058
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AACCB-3357-N		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	None
Revenue by	:	Shri Tharian Oommen- Ld. DR
सुनवाई की तारीख/ Date of Hearing	:	22/02/2021
घोषणा की तारीख / Date of Pronouncement	:	03/03/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment Year [AY] 2011-12 contest the order of Ld. Commissioner of Income-Tax (A)-16, Mumbai [CIT(A)], Appeal No.CIT(A)-16/DCIT-9(2)(1)/IT-10094/2018-19 dated 15/05/2019 which has deleted the penalty of Rs.19,278/- u/s 271(1)(c) as levied by Ld. AO vide penalty order dated 13/02/2018.
2. The assessee was assessed u/s 143(3) r.w.s. 147 on 26/02/2015 wherein it was saddled with addition of Rs.4.99 Lacs on

account of alleged bogus purchases. However, upon further appeal, Ld. CIT(A), vide order dated 20/06/2016 restricted the quantum additions to the extent of 12.5%. Consequently, impugned penalty was levied by Ld. AO against the assessee vide order dated 13/02/2018. Upon further appeal challenging levy of penalty, Ld. CIT(A) deleted the same by observing that there was neither concealment of income nor furnishing of inaccurate particulars by the assessee as the assessee had truly disclosed the purchase transactions. Further, no penalty could be levied on agreed additions. Aggrieved, the revenue is in further appeal before us.

3. Though none has appeared for assessee, however, in our considered opinion, the impugned order would not require any interference on our part for two reasons. Firstly, the additions were merely estimated additions for unproved purchases and therefore, no case of concealment of income or furnishing of inaccurate particulars of income could be made out against the assessee. Secondly, the revenue's appeal is not maintainable in terms of latest low tax effect CBDT Circular No. 17/2019 dated 08/08/2019 [F.No.279/Misc. 142/2007-TTJ(Pt.) which prescribes minimum threshold limit of Rs.50 Lacs for revenue to agitate the matter further before Tribunal.

4. Resultantly, the appeal stand dismissed.

Order pronounced on 03rd March, 2021

Sd/-

(Mahavir Singh)

उपाध्यक्ष / **Vice President**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 03/03/2021
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.**