

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH
MUMBAI**

**BEFORE: SHRI M.BALAGANESH, AM
&
SHRI RAVISH SOOD, JM**

**ITA No.5492/Mum/2019
(Assessment Year :2009-2010)**

DCIT-9(2)(2) Room No.655A, 6 th Floor Aayakar Bhavan Churchgate, Mumbai-400020	Vs.	M/s. City Build Arcade Pvt. Ltd., 9, Sagar Tower, Fair Deal Road, Off. S.V.Road Jogeshwari (W), Mumbai – 400 102
PAN/GIR No.AACCC4021C		
(Appellant)	..	(Respondent)

Revenue by	Ms. Shreekala Pardeshi
Assessee by	Ms. Shefali
Date of Hearing	10/03/2021
Date of Pronouncement	10/03/2021

आदेश / ORDER

PER M. BALAGANESH (A.M):

This appeal in ITA No.5492/Mum/2019 for A.Y.2009-10 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-16, Mumbai in appeal No.CIT(A)-16/DCIT-9(2)(2)/IT-10026/2018-19 dated 21/04/2018 in the matter of imposition of penalty u/s.271(1)(c) of the Income Tax Act, 1961.

2. The Id. DR argued vehemently that the penalty levied by the Id. AO in respect of disallowance made on bogus purchases. Accordingly, in the opinion of the Id. DR, the same would fall within the exception provided in the CBDT Circular No.17/2019 dated 08/08/2019. We find that the exception provided in the said Circular dated 08/08/2019 issued by the CBDT would apply only in respect of quantum assessment proceeding and the same cannot be made applicable for penalty proceeding and it is well settled that penalty proceeding and assessment proceedings are distinct and separate. In view of this, we are inclined to treat this appeal as not maintainable in view of the CBDT Circular No.17/2019 dated 08/08/2019 treating it as an appeal involving tax effect less than the prescribed monetary limit.

3. In the result, appeal filed by the revenue is dismissed as not maintainable.

Order pronounced in the open Court on 10/03/2021.

Sd/-
(RAVISH SOOD)
JUDICIAL MEMBER

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 10/03/2021
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