

**आयकर अपीलीय अधिकरण “एच” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“H” BENCH, MUMBAI**

**माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य**  
**एवं माननीय श्री रवीशसूद, न्यायिक सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**AND HON’BLE SHRI RAVISH SOOD, JM**  
**(Hearing Through Video Conferencing Mode)**

आयकरअपील सं./ I.T.A. No.6437/Mum/2019  
(निर्धारण वर्ष / Assessment Year: 2009-10)

<b>ITO-32(3)(4)</b> R.No.735, 7 <sup>th</sup> Floor Kautilya Bhawan BKC, Bandra (E) Mumbai – 400051	<b>बनाम/ Vs.</b>	<b>M/s Shreeram Steel Corporation</b> 127, Magazine Street Darukhana, Mazagaon Mumbai – 400 010
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>AAPFS-0288-P</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	None
<b>Revenue by</b>	:	Shri Sumit Kumar- Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	01/04/2021
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	05/04/2021

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. At the time of hearing, none appeared for assessee. However, we find that the revenue is contesting the deletion of penalty of Rs.2.55 Lacs u/s 271(1)(c) by learned first appellate authority vide impugned order dated 26/07/2019. The penalty has been deleted in view of the fact that addition on account of alleged bogus purchases has been made on estimated basis.

2. After going through material on record, we find that quantum of penalty under dispute is below threshold monetary limit of Rs.50 Lacs and therefore, the appeal is not maintainable in terms of recently issued 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. In view of the same, the appeal is not maintainable.

3. The Ld. DR submitted that penalty should be construed to be covered by exception clause 10(e) of the circular since the same was levied on account of quantum additions which was based upon receipt of information from an external agency i.e. Sales Tax Department.

4. We have considered the said submissions. It is settled legal position that quantum proceedings and penalty proceedings are independent and distinct proceedings and confirmation of additions may not be the sole ground for confirming the penalty. Extending the same logic, unless specific exception is provided in the circular with respect to penalty also, it could not be construed that the penalty was to be treated at par with quantum additions. The clause 10(e) specifically applies only to additions which are based on information received from external sources. The levy of penalty, by no stretch of imagination, could be construed as *addition* as envisaged by clause 10(e). Therefore, the submissions made by Ld. DR could not be accepted.

5. In view of the foregoing, the appeal stand dismissed. However, a liberty is given to revenue to seek recall of the appeal, if at a later stage, it is found that the matter is covered by any exceptions provided in any of

the circular or in case the tax effect in the appeal exceeds the prescribed monetary limit.

6. Resultantly, the appeal stands dismissed.

*Order pronounced on 5<sup>th</sup> April, 2021.*

**Sd/-**

**(Ravish Sood)**

न्यायिक सदस्य / **Judicial Member**

**Sd/-**

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 05/04/2021

*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.**