

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

**BEFORE: SHRI MAHAVIR SINGH, VICE PRESIDENT
&
SHRI M.BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.5980/Mum/2019
(Assessment Year :2009-10)**

&

**ITA No.5981/Mum/2019
(Assessment Year :2011-12)**

ITO 9(2)(3) Room No.601A, 6 th Floor Aayakar Bhavan Churchgate, Mumbai – 400 020	Vs.	M/s. Capro Valves & Controls Pvt. Ltd., Gala No.5, Surat Singh Estate Chawl Behind Agarwal Industrial Estate, Off S.V. Road Mumbai -400 102
PAN/GIR No.AACCC4119R		
(Appellant)	..	(Respondent)

Revenue by	Shri Dev Vora
Assessee by	Ms. Shreekala Pardeshi
Date of Hearing	31/03/2021
Date of Pronouncement	31/03/2021

आदेश / O R D E R

PER M. BALAGANESH (A.M):

These appeals in ITA No.5980/Mum/2019 & 5981/Mum/2019 for A.Y.2009-10 & 2011-12 arise out of the order by the Id. Commissioner of Income Tax (Appeals)-16, Mumbai in appeal No.CIT(A)-16/IT-10385/ITO-9(2)(2)/2018-19 & CIT(A)-16/IT-10386/ITO-9(2)(2)/2018-19 respectively

dated 28/06/2019 (Id. CIT(A) in short) in the matter of imposition of penalty u/s.271(1)(c) of the Income Tax Act (hereinafter referred to as Act).

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 these appeals 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, appeals filed by the revenue are dismissed as not maintainable.

Order pronounced in the open Court on 31/03/2021.

Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 31/03/2021
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