

आयकर अपीलीय अधिकरण "A" न्यायपीठ मुंबई में

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, MUMBAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एम. बालगणेश, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VP AND SHRI M. BALAGANESH, AM

आयकर अपील सं./ ITA No. 6404/Mum/2019

(निर्धारण वर्ष / Assessment Year 2012-13)

Dy. Commissioner of Income Tax Circle 12(1)(1), Room No.128C, 1 st Floor, Aayakar Bhawan, Churchgate, Mumbai-400 020	बनाम/ Vs.	M/s Arviva Industries (I) Ltd. T-15, MIDC, Taloja, Raigad-410208
(अपीलार्थी / Appellant)		(प्रत्यर्थी/ Respondent)
स्थायी लेखा सं./PAN No. AAACA5076H		

अपीलार्थी की ओर से/ Appellant by	:	Shri Brajendra Kumar, DR
प्रत्यर्थी की ओर से/ Respondent by	:	Ms Mragakshi Joshi, AR

सुनवाई की तारीख / Date of hearing:	21.06.2021
घोषणा की तारीख / Date of pronouncement:	24.06.2021

आदेश / ORDER

एम. बालगणेश, लेखा सदस्य के द्वारा /

PER M. BALAGANESH, AM:

This appeal of Revenue is arising out of the order of the Commissioner of Income Tax (Appeals)-20, Mumbai [in short CIT(A)], dated 26.06.2019. The assessment was framed by the Dy. Commissioner of Income Tax, Circle 9(1), Mumbai (in short DCIT/ITO/AO) for the A.Y. 2012-13 vide order dated 11.11.2014 under section 143(3) of the Income-tax Act, 1961 (hereinafter 'the Act'). The penalty was levied by Dy. Commissioner of Income Tax, Circle-12(1)(1), Mumbai vide order dated 29.05.2015.

2. We have heard rival submissions and perused the material available on record. We find that the Id. AO had levied penalty on the

estimated addition made on account of bogus purchases. This penalty levied u/s.271(1)(c) of the Act on an addition made on account of bogus purchases was deleted by the Id. CIT(A) on the primary ground that no penalty would survive on an estimated addition. Aggrieved, the revenue is in appeal before us.

3. We find at the outset, the Id AR argued that penalty that is in dispute before us, falls below the monetary limit prescribed by the CBDT in its Circular No. 17/2019 dated 08/08/2019 for preferring appeal by the Revenue before this Tribunal. We find that the Id. DR vehemently argued that the said cases fall within the exception provided in para 10(e) of the said Circular and accordingly he argued that the appeals are maintainable. We find that the exception provided in para 10(e) of the Circular 17/2019 dated 08/08/2019 is applicable only for the quantum proceedings and the same cannot be made applicable for penalty proceedings. It is well settled that penalty and quantum assessment proceedings are distinct and separate. Accordingly, we dismiss this appeal of the Revenue by following the aforesaid Circular No.17/2019 dated 08/08/2019 and hold that the appeal of the Revenue is not maintainable.

4. In the Result, the appeal of Revenue is dismissed.

Order pronounced in the open court on 24.06.2021.

Sd/-

(महावीर सिंह / MAHAVIR SINGH)

(उपाध्यक्ष / VICE PRESIDENT)

Sd/-

(एम. बालगणेश / M. BALAGANESH)

(लेखा सदस्य / ACCOUNTANT MEMBER)

मुंबई, दिनांक/ Mumbai, Dated: 24.06.2021

सुदीप सरकार, व. निजी सचिव/ Sudip Sarkar, Sr.PS



आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

व. निजी सचिव/ Sr. Private Secretary

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai