

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

**BEFORE SHRI RAJESH KUMAR, ACCOUNTANT MEMBER AND
SHRI RAVISH SOOD, JUDICIAL MEMBER**

**ITA No.7375/M/2019
Assessment Year: 2009-10**

ITO 22(2)(7), Income Tax Office, R.No.107, 1 st Floor, Piramal Chambers, Lalbaug, Mumbai – 400012	Vs.	Mr. Pravinkumar Tarachand Sakaria, 110/7, B.D.D. Chawl, Worli, Mumbai - 400 018 PAN: AADPS3575P
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Vinit Kumar Sakaria, A.R.
Revenue by : Ms. Shreekala Pardeshi, D.R.

Date of Hearing : 22.07.2021
Date of Pronouncement : 26.07.2021

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the Revenue against the order dated 23.09.2019 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2009-10.

2. At the outset, it is noticed that the CBDT recently has amended the CBDT Circular No. 3/2018 dated 11.07.2018 vide Circular No. 17/2019, F.No. 279/Misc.142/2007-ITJ(Pt.) dated 08.08.2019 increasing the limit for filing of appeal before Income Tax Appellate Tribunal i.e. Rs.50 lacs in each of the case. We noted that earlier Circular No. 3 of 2018 was made applicable to pending appeals also and this clause of the circular remains

unchanged even after the amendment. Admittedly, in this case tax effect is below prescribed limit for filing of appeal before the Tribunal by the Revenue i.e. Rs.50 lacs.

3. When this was confronted to the learned Departmental Representative, he could not point out that this appeal falls under any of the exception as provided in Circular No. 17 of 2019. Admittedly, the tax effect in this appeal of Revenue is much below the prescribed limit of filing appeal before the Tribunal i.e. Rs.50 lacs as per CBDT circular No. 17 of 2019. In view of the above, this appeal of Revenue is dismissed as withdrawn in view of Circular No. 17 of 2019.

4. Now, before us, the learned CIT Departmental Representative only requested that he wants to verify whether this appeal falls under any of the explanation provided in CBDT Circular No. 3/2018. We do not find any merit in the argument of the Ld. A.R. qua this penalty appeal falling under exception to the circulars as referred to above. The issue whether the penalty on bogus purchases where the information has been received from external sources falls under exception as provided in the above circulars has been decided by the co-ordinate Bench in ITA No.4130/M/2019 A.Y. 2011-12 wherein it has been held that the clause 10(e) of CBDT circular No.3/2018 as amended on 20.08.2018 applies to quantum additions and not the penalty. Hence, this appeal is dismissed as low tax effect covered by CBDT Circular No. 17/2019.

5. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 26.07.2021.

**Sd/-
(Ravish Sood)
JUDICIAL MEMBER**

**Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER**

Mumbai, Dated: 26.07.2021.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.