

# 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. 6336/Mum/2019

(निर्धारण वर्ष / Assessment Year 2009-10)

The Asst. Commissioner of Income Tax, Circle 12(3)(2), Room No.128H, 1 <sup>st</sup> Floor, Aayakar Bhavan, M.K. Rd, Mumbai-400 020	बनाम/ Vs.	M/s Life Cycle Infotech Pvt. Ltd. 609, Inizio, Opp. P.G. Gala Chaka, Chakala, Andheri-Kurla Road, Andheri (East), Mumbai-400 093
(अपीलार्थी / Appellant)		(प्रत्यर्थी/ Respondent)
स्थायी लेखा सं./PAN No. AABCL0572C		

अपीलार्थी की ओर से/ Appellant by	:	Shri Rajeev Harit, CIT DR
प्रत्यर्थी की ओर से/ Respondent by	:	Shri Prakash Jhunjunwala, AR

सुनवाई की तारीख / Date of hearing:	21.06.2021
घोषणा की तारीख / Date of pronouncement:	12.07.2021

## **आदेश / ORDER**

महावीर सिंह, उपाध्यक्ष के द्वारा /

**PER MAHAVIR SINGH, VP:**

This appeal of Revenue is arising out of the order of the Commissioner of Income Tax (Appeals)-20, Mumbai [in short CIT(A)], dated 13.06.2019. The assessment was framed by the Dy. Commissioner of Income Tax, Ward-12(3)(2), Mumbai (in short DCIT/ITO/ AO) for the A.Y. 2009-10 vide order dated 20.03.2015 under section 143(3) of the Income-tax Act, 1961 (hereinafter 'the Act'). The penalty was levied by the DCIT 12(3)(2) under section 271(1)(c) of the Act vide order dated 31.03.2018.



2. The only issue in this appeal of Revenue is against the order of CIT(A) deleting the levy of penalty under section 271(1)(c) of the Act for furnishing of inaccurate particulars of income in respect to the claims of assessee on bogus purchases on which depreciation as claimed. For this, Revenue has raised various grounds.

3. At the outset, the learned counsel for the assessee stated that the penalty under dispute is amounting to ₹ 96,950/- which is below the prescribed limit of low tax effect as prescribed under CBDT Circular No.17 of 2019 dated 08.08.2019. The learned Counsel for the assessee drew our attention to the Tribunals order in the case of ITO vs. M/s Air Vision Technologies Private Limited in ITA No.4130/Mum/2019 dated 19.02.2021, wherein Tribunal has adjudicated Para 11 as under: -

*"11. Before adverting any further it would be relevant to cull out the exception carved out in clause 10(e) of the CBDT Circular No. 3/2018 (as amended on 20.08.2018), which reads as under:*

*10. Adverse judgments relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 above or there is no tax effect: -*

*(a) ..... to*  
*(d).....*  
*.....*



*(e) Where addition is based on information received from external sources in the nature of law enforcement agencies such as CBI / ED / DRI / SFIO / Directorate General of GST Intelligence (DGGI)".*

*Admittedly, it is a settled position of law that quantum proceedings and penalty proceedings are independent and distinct proceedings and confirmation of an addition cannot on a standalone basis justify imposition/upholding of a penalty u/s 271(1)(c) of the Act. Adopting the same logic, we are of the considered view that unless a specific exception is provided in the circular w.r.t penalty also, it could by no means be construed that penalty was to be treated at par with the quantum additions. As is discernible from Clause 10(e) of the aforesaid CBDT Circular No. 3/2018 (as amended on 20.08.2018), the same applied only to additions which were based on information received from external sources. As noticed by us hereinabove, since the levy of penalty by no means could be construed as an addition within the meaning of Clause 10(e) of the aforesaid circular, therefore, we do not find any merit in the contentions advanced by the Id. D.R that the aforesaid exception carved out in the CBDT Circular No. 3/2018 (supra) would also take within its realm a penalty imposed under Sec. 271(1)(c) w.r.t the additions made by the A.O towards bogus purchases on the basis of information received from Sales Tax Department, i.e an external agency. Accordingly, finding*

*favour with the claim of the Id. A.R that the appeal of the revenue is covered by the CBDT Circular No. 17/2019, dated 08.08.2019, the same, thus, in our considered view is not maintainable. Accordingly, we herein dismiss the appeal of the revenue, for the reason, that the tax effect therein involved is lower than that contemplated in the aforesaid CBDT Circular fixing the monetary limit of filing of appeals by the revenue before the Tribunal.*

*12. Resultantly, the appeal of the revenue is dismissed."*

4. As the facts are exactly identical and issue is covered in favour of assessee, we are of the view that CIT(A) has rightly deleted the penalty and we confirm the same.

**5. In the Result, the appeal of the Revenue is dismissed as withdrawn.**

Order pronounced in the open court on 12.07.2021.

Sd/-

(महावीर सिंह / MAHAVIR SINGH)

(उपाध्यक्ष / VICE PRESIDENT)

Sd/-

(एम. बालगणेश / M. BALAGANESH)

(लेखा सदस्य / ACCOUNTANT MEMBER)

मुंबई, दिनांक/ Mumbai, Dated: 12 .07.2021

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,**

**सत्यापित प्रति //True Copy**

**व. निजी सचिव/ Sr. Private Secretary**  
**आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**