

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

(Through Virtual Court)

BEFORE SHRI R.S. SYAL, VICE PRESIDENT  
AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1918/PUN/2019

निर्धारण वर्ष / Assessment Year : 2010-11

M/s. Gorur Infra Projects Pvt. Ltd.,  
C/o. Adv. D.Y. Pandit,  
Krupa 1187/10, Shivaji Nagar,  
Pune - 411005

PAN : AADCG5519J

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Dy. Commissioner of Income Tax,  
Panvel Circle, Panvel

.....प्रत्यर्थी / Respondent

Assessee by : Smt. Deepa Khare

Revenue by : Shri S.P. Walimbe

सुनवाई की तारीख / Date of Hearing : 17-01-2022

घोषणा की तारीख / Date of Pronouncement : 17-01-2022

**आदेश / ORDER**

**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the assessee against the order dated 01-10-2019 passed by the Commissioner of Income Tax (Appeals)-2, Thane [‘CIT(A)'] for assessment year 2010-11.

2. The only issue is to be decided is as to whether the CIT(A) is justified in confirming the penalty imposed by the AO u/s. 271(1)(c) of the Act in the facts and circumstances of the case.

3. Heard both the parties and perused the material available on record. We note that the AO initially completed the assessment u/s. 143(3) of the Act vide its order dated 26-03-2013 wherein he determined the total income of the assessee at Rs.3,20,80,770/- against the Nil return inter alia making addition u/s. 80IA(4) of the Act and on account of bogus purchases to an extent of Rs.90,84,435/- and Rs.2,29,96,335/-, respectively. Against which, the assessee preferred an appeal before the CIT(A) wherein the CIT(A) partially confirmed the order of AO in respect of bogus purchases and gave relief u/s. 80IA(4) of the Act by holding that the assessee is entitled to claim exemption u/s. 80IA of the Act. The Id. AR submits that the appeal filed by the Revenue against the relief given by the CIT(A) u/s. 80IA(4) of the Act was dismissed by this ITAT being low tax effect and directed the AO to consider the issue of bogus purchases keeping in view of eligibility of assessee is also part of profit u/s. 80IA(4)(b) of the Act. We note that the AO passed order u/s. 143(3) r.w.s. 254 r.w.s. 144B of the Act giving effect to the orders of ITAT which is at Page No. 2 of the paper book. On perusal of Para No. 4 of the assessment order dated 29-09-2021 we note that the AO added the bogus purchases to the total income of the assessee and held that the assessee is eligible for deduction as per the provisions of section 80IA(4) of the Act. Therefore, when the AO initiated penalty proceedings initially u/s. 271(1)(c) of the Act in view of the finding during the original assessment proceedings u/s. 143(3) of the Act for furnishing inaccurate particulars of income in terms of the bogus purchases which were treated by the AO in terms of directions of ITAT same as part of income which resulted into increase of income which is

eligible for deduction u/s. 80IA(4) of the Act. Therefore, the penalty as imposed by the AO on account of furnishing inaccurate particulars relating to the bogus purchases does not survive. Thus, the penalty imposed by the AO as confirmed by the CIT(A) is not justified. Thus, the order of CIT(A) is not justified and grounds raised by the assessee are allowed.

4. In the result, the appeal of assessee is allowed.

Order pronounced in the open court on 17<sup>th</sup> January, 2022.

Sd/-  
(R.S. Syal)  
VICE PRESIDENT

Sd/-  
(S.S. Viswanethra Ravi)  
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 17<sup>th</sup> January, 2022.

रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-2, Thane
4. The Pr. CIT-2, Thane
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune