

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

BEFORE ShRI PRASHANT MAHARSHI (AM) AND SMT. KAVITHA RAJAGOPAL (JM)

ITA Nos. 2498 & 2499/Mum/2021
(Assessment Years 2010-11 & 2011-12)

Income-tax Officer-19(3)(1)
Matru Mandir Building
Room No.202, Grant Road
Mumbai-400 007

..... Applicant

v/s

M/s Supreme Steel Impex
Shop No.2, Manshukh Niwas,
188, Khetwadi Back Road
Mumbai-400 004
PAN : AAXFS7565B

.....Respondent

Assessee represented by	:	Shri Satish Bokadia
Revenue represented by	:	Shri Hoshang B Irani (DR)

Date of hearing:	23.05.2022
Date of pronouncement :	24.05.2022

ORDER

PER KAVITHA RAJAGOPAL, JM:

The captioned appeals arise out of the separate orders both dated 07/06/2021 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi for the assessment years

2010-11 and 2011-12 against the penalty orders passed by the Assessing Officer under section 271(1)(c) of the Act. The solitary ground which is common to both the appeals is as follows:-

“1.a) Whether, on the facts and in the circumstances of the case and in law, the CIT(A) was justified in deleting the penalty levied on addition made by the AO on bogus purchases despite the fact that the addition was made on the basis of credible information received from DGIT(Inv) Mumbai based on information supplied from sales tax authorities?”

2. The brief facts are that the Assessee firm is engaged in the business of trading in ferrous / non ferrous metals, filed its return of income for A.Ys 2010-11 & 2011-12 on 26/09/2010 and 19/09/2011 declaring total income of Rs.1,29,610/- and Rs.3,04,790/- respectively. Assessment was reopened for the impugned assessment years on the ground that income chargeable to tax has escaped assessment on the basis of information received from the DGIT(Inv), Mumbai, with regard to bogus sale bills issued by three parties alleged to be hawala dealers. Assessment orders under section 143(3) r.w.s. 147 were passed and addition was made. Subsequent to this, the Assessing Officer initiated penalty proceedings and levied penalty in assessee's case under section 271(1)(c) of the Act for both the assessment years under appeal, which, on appeal was deleted by the Ld.CIT(A) on the ground that unsubstantiated claim does not amount to furnishing of inaccurate particulars of income.

3. Aggrieved by the orders of Ld.CIT(A), the Revenue is in appeal before us.

4. The Ld.AR contended that the impugned penalty of Rs.64,000/- and Rs.2,02,050/- respectively, would fall under the purview of the monetary limit prescribed by the CBDT in its in Circular No. 17/2019 vide F.No. 279/Misc.142/2007-ITJ(Pt.) dated 08.08.2019, wherein the department has taken a policy decision not to prosecute the appeals when the tax effect is less than Rs.50 lakhs. On the other hand, the Ld.DR argued that the Assessee's case would fall within the exception provided in para 10(e) of the circular No.17/2019 dated 08/08/2019.

5. Having considered the rival submissions of the learned representatives, we are of the considered opinion that the exception provided in para 10(e) of the circular No.17/2019 dated 08/08/2019 is applicable only for the quantum proceedings and not to penalty proceeding. As the issue involved in both these appeals pertains to penalty levied under section 271(1)(c) of the Act which is divergent to that of the quantum proceedings, we hereby treat the appeals filed by the Revenue as withdrawn on account of low tax effect with the liberty to the Revenue to recall the same at a later stage, if it warrants to be so.

6. In the result, the appeals filed by the Revenue are dismissed.

Order pronounced in the open court on 24.05.2022.

Sd/-

sd/-

(PRASHANT MAHARSHI)
ACCOUNTANT MEMBER
Pavanan Dt : 24/05/2022

(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

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,

उप/सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai