

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

BEFORE SHRI PRASHANT MAHARISHI, AM
AND
MS. KAVITHA RAJAGOPAL, JM

ITA No. 2497/Mum/2021

(Assessment Year 2010-11)

The Income Tax Officer
25(3)(1)
Room No. 233, 2nd Floor,
Kautilya Bhavan,
BKC, Bandra (E)
Mumbai-400 051

Vs.

Smt. Shobha Chidambaram
9, Ankur, Hanuman Cross
Road,
2, Ville Parle (E),
Mumbai-400 057

(Appellant)**(Respondent)****PAN No. AAAPC4727A****Assessee by** : Shri Mehul Jain, AR**Revenue by** : Shri Hoshang B Irani, DR**Date of hearing:** 23.05.2022**Date of pronouncement :** 01.06.2022**ORDER****PER PRASHANT MAHARISHI, AM:**

01. This appeal is filed by ITO, Ward 23(1), Mumbai (the learned Assessing Officer) against the order passed by National Faceless Centre, [the learned CIT(A)] for Assessment Year 2010-11, wherein the penalty under Section 271(1)(c) of the Act by the order dated 31st March, 2016 of ₹2,84,756/- was reduced to only 10% of the penalty i.e. to ₹28,475/-. The learned Assessing Officer has raised the following three grounds of appeal:-

"1. Whether on the facts and in the circumstance of the case and in law, the Ld CIT(A) has erred in deleting the penalty u/s 271(1)(c) of Re2,56,280/- which was levied on the addition of Rs. 9,21,532/- total bogus purchase.

2. Whether on the facts and in the circumstances of the case and in law, the Ld CIT(A) has erred in deleting the penalty u/s. 271(1)(c) of Rs 2,56,280/- in spite of the penalty was levied in respect of addition of Rs.9,21,532/- made on the basis of information received from Sales Tax Department, Maharashtra with regard to bogus purchase made by the assessee from entry providers without supply of actual goods and sound evidence.

3. Whether on the facts and in the circumstances of the case and in law. the Ld CIT(A) has erred in deleting the penal, u/s. 271(1)(d) of Rs.2,56,280/- imposed n respect of difference between enhanced income over and above the returned income based on evidences which prove that the assessee has debited purchases from parties which did not make actual supply of goods and. thereby, falsified the books accounts.

4. The appellant craves leave to amend or alter or add a new ground which may be necessary."

02. The brief fact of the case shows that assessee is an individual running a proprietary business in the name of Sai Plastic Industries of dealing and fixing of PVC doors, windows, etc. The assessee filed her return of income on

20th September, 2010 at ₹9,46,240/-. This return of income was assessed at ₹18,67,680/- by order dated 25th March, 2013 under Section 143(3) of the Act. The learned Assessing Officer found that assessee has obtained bills from tainted parties. Therefore, ₹9,21,532/- was added under Section 69C of the Act. This quantum addition has challenged to ITAT. The co-ordinate Bench in ITA no.6429/Mum/2014 dated 23rd June, 2017 restricted the disallowance at the rate of 10% of the impugned purchases of ₹9,21,532/- to ₹92,153/-.

03. Meanwhile, the penalty order was passed under Section 271 of the Act on 31st March, 2016, wherein penalty was levied holding that assessee has furnished inaccurate particulars of income of ₹9,21,532/-. The assessee challenged the penalty order before the learned CIT (A), who confirmed the levy of penalty but restricted to 10% of the penalty levied based on the order of ITAT. Accordingly, the penalty of ₹2,84,756/- was reduced to ₹28,475/-. The Assessing Officer is aggrieved with this order of learned CIT (A).
04. We have heard the rival contentions and we find that on principle, the learned CIT (A) has upheld the levy of penalty, however, reduced the amount of penalty to 10% only. This was made so, as the quantum addition itself was reduced by ITAT to the extent of 10% only. We do not find any infirmity in the order of the learned CIT (A). Further, looking at the grounds of appeal raised by the learned Assessing Officer it is claimed that CIT (A) has



deleted the penalty. These grounds of appeal are based on in proper reading of the order of the learned CIT (A), who restricted the penalty to the extent of additions confirmed by ITAT. We do not find any merit in the appeal of the learned Assessing Officer, hence, all the three grounds raised are dismissed.

05. In the Result, appeal filed by the learned Assessing Officer is dismissed.

Order pronounced in the open court on 01.06.2022.

Sd/-
(KAVITHA RAJAGOPAL)
(JUDICIAL MEMBER)

Sd/-
(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 01.06.2022

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai