

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER  
AND  
SHRI RATHOD KAMLESH JAYANTBHAI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No. 09/RPR/2019

निर्धारण वर्ष / Assessment Year : 2010-11

ITO  
1(4), Raipur

.....अपीलार्थी / Appellant

**बनाम / V/s.**

M/s Drolia Enterprises,  
Kapil Complex, Gurunanak Chowk,  
Kelkarpara, Raipur (C.G)  
PAN : AADFD7319N

.....प्रत्यर्थी / Respondent

Assessee by : Shri Praveen Goyal

Revenue by : Shri G.N Singh

सुनवाई की तारीख / Date of Hearing : 06.06.2022

घोषणा की तारीख / Date of Pronouncement : 07.06.2022

**आदेश / ORDER****PER RATHOD KAMLESH JAYANTBHAI, AM:**

This appeal by the department is directed against the order dated 25.06.2018 of Id. CIT (A)-1, Raipur for the assessment year 2010-11 wherein the revenue has raised the following grounds of appeal:-

- "1. Whether on points of law and on facts & circumstances of the case, the Ld. CIT(A) was justified in deleting the addition Rs.1,49,130/- ignoring the fact that these purchase were nothing but bogus purchases managed through bogus bills"?*
- 2. "Whether on points of law and on facts & circumstances of the case, the Ld. CIT(A) having concurrent powers of the AO u/s 250(4) of the Act, was justified in ignoring the finding of Commercial Tax Department who has treated the seller namely M/s Tirupati Traders on bogus entity?"*
- 3. "Whether on points of law and on facts & circumstances of the case, the Ld.CIT(A) was justified in ignoring the ratio of the landmark decision of the Supreme Court in the case of McDowell and Co. Ltd. Vs Commercial Tax Officer 154 148(SC), as the same ratio of this landmark decision is applicable to the facts and circumstances of the instant case of the assessee?"*
- 4. "Whether on points of law and on facts & circumstances of the case, the Ld. CIT(A) was justified in ignoring the ratio of the ITAT Mumbai in the case of Soman Sun City Vs. JCIT, wherein it is held that purchases could not be treated as genuine even if the purchase bill produced and payment is made through banking channel and other evidence is lacking?"*
- 5. Whether on points of law and on facts & circumstances of the case, the Ld. CIT(A) was justified in ignoring the ration of Hon'ble Delhi High Court in the case of CIT-II vs. Jansampark Advertising & Marketing (P.) Ltd. Reported in [2015] 56 taxman.com 286 (Delhi) held that "through it is obligation of assessing officer to conduct proper scrutiny of material, in even of assessing officer failing to discharge his functions properly, obligation to conduct proper*

*inquiry shifts to commissioner (Appeals) and Tribunal and they cannot simply delete addition made by assessing office on ground of lack of inquiry."*

*6. "Whether on points of law and on facts & circumstances of the case, the Ld.CIT(A) was justified in accepting the fresh evidence produced by the assessee without allowing the AO if any, proper opportunity to examine the same, thereby violating the provision on law under Rule 46A of IT Rules?."*

*7. "Whether on points of law and on facts & circumstances of the case, the Id. CIT(A) was justified in deleting the addition of Rs.1,49,130/- by ignoring the fact available on recording as the findings of the Commercial Tax Department that said seller namely M/s Tirupati Traders are bogus, cancellation of TIN registration of alleged entity on account of no business activity, non-existence of the concerns at the registered address and disallowance of VAT input of the assessee due to claim of purchases from bogus concerns, thereby rendering a decision, which is perverse?"*

*8. Whether on points of law and on facts & circumstances of the case, the Id. CIT(A) has erred in law by holding the decision in favour of the assessee and against the revenue though there is no nexus between the conclusion on fact and primary fact upon which without conclusion is based?*

*9. The order of Ld. CIT(A) is erroneous both in law and on facts.*

*10. Any other ground that may be adduced at the time of hearing."*

2. As per the above grounds of appeal, the tax effect calculated by the AO in respect of the relief granted by the Id. CIT (A) which has been challenged in the present appeal is Rs. 46,081/-, as submitted by the Id. DR in his request for withdrawal of this appeal.

3. We have heard the Id. D/R as well as the Id. A/R. At the outset, we note that the tax effect in this appeal is not exceeding the monetary limit as revised by the CBDT vide Circular dated 08.08.2019 for the purpose of filing of appeal by the department before the Income Tax

Appellate Tribunal from Rs. 20,00,000/- to Rs. 50,00,000/-. For ready reference, we reproduce the CBDT Circular No. 17 of 2019 dated 08.08.2019 as under :-

Further Enhancement of Monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court - Amendment to Circular 3 of 2018 - Measures for reducing litigation.

Circular No. 3/2018 dated 11th July 2018 has been replaced by Circular No. 17/2019 dated 8th August 2019 to enhance Monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court for reducing litigation.

Appeals/SLPs in Income-tax matters	Monetary Limit (Rs.) (previous limit)	Monetary Limit (Rs.) (Revised Limit)
Before Appellate Tribunal	20,00,000	50,00,000
Before High Court	50,00,000	1,00,00,000
Before Supreme Court	1,00,00,000	2,00,00,000

- The Assessing Officer shall calculate the tax effect separately for every assessment year in respect of the disputed issues in the case of every assessee. If, in the case of an assessee, the disputed issues arise in more than one assessment year, appeal can be filed in respect of such assessment year or years in which the tax effect in respect of the disputed issues exceeds the monetary limit. No appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit.
- Further, even in the case of composite order of any High Court or appellate authority which involves more than one assessment year and common issues in more than one assessment year, no appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit.
- In case where a composite order/ judgement involves more than one assessee, each assessee shall be dealt with separately.”

Accordingly, the appeal of the department is not maintainable being monetary limit is less than/not exceeding Rs. 50,00,000/-.

4. The department is at liberty to file the Miscellaneous Application in case the tax effect in this appeal is found to be more then Rs. 50,00,000/- or the case falls in any of the exceptions criteria of that circular.

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

Order pronounced in open court on 7<sup>th</sup> June, 2022

Sd/-  
**RAVISH SOOD**  
JUDICIAL MEMBER

Sd/-  
**RATHOD KAMLESH JAYANTBHAI**  
ACCOUNTANT MEMBER

रायपुर/ RAIPUR ; दिनांक / Dated : 7<sup>th</sup> June, 2022  
Ganesh Kumar

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G)
4. The Pr. CIT-1, Raipur (C.G)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,  
रायपुर / DR, ITAT, Raipur Bench, Raipur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary

आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.

1	Draft dictated on		Sr.PS/PS
2	Draft placed before author		Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		