

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JM &
SHRI S. RIFAUR RAHMAN, AM**

आयकरअपीलसं./ I.T.A. No. 271 & 272/Mum/2022
(निर्धारणवर्ष / Assessment Year: 2009-10 & 2010-11)

M/s Rolex Lanolin Products Ltd. 14, Old Tejpal Ind. Estate, Andheri Kurla Road, Sakinaka, Andheri (E), Mumbai-400 072	<u>बनाम/</u> Vs.	CIT(A), Mumbai
स्थायीलेखासं ./जीआइआरसं ./PAN No. AAACR3499P		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)
अपीलार्थीकीओरसे/ Appellant by	:	Shri Bharat Chovatia Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Shri Mahita Nair, Ld. DR
सुनवाईकीतारीख/ Date of Hearing	:	07.07.2022
घोषणाकीतारीख / Date of Pronouncement	:	07.07.2022

आदेश / O R D E R

Per Amit Shukla, Judicial Member:

The aforesaid appeals have been filed by the assessee against the separate impugned order of even date 06.12.2021, passed by National Faceless Appeal Centre (NFAC), Delhi in relation to the penalty proceedings u/s 271(1)(c) for AY 2009-10 and 2010-11.

2. Since the grounds raised as well as issues involve in both the appeals are common and are arising identical set of facts, therefore the same were heard together and disposed of by way of this consolidated order.

3. In AY 2009-10, assessee is aggrieved by levy of penalty of Rs. 29,090/-, and in AY 2010-11, assessee is aggrieved Rs. 78,072/- on account of bogus purchases.

4. Here in these cases, on the basis of information that assessee company had taken accommodation entries for bogus purchases in the following assessment years, which are:-

In AY 2009-10,

Rs. 5,77,429/- from N. B. Enterprises
Rs. 1,75,719/- from Paras Enterprises.

In AY 2010-11,

Rs. 19,82,344/- from Revika Trade Impex Pvt. Ltd.
Rs. 38,938/- from Krish Corporation

5. The AO had made the addition of entire purchases in both the assessment years and the first appellate authority i.e. Ld. CIT(A) has given substantial relief by holding that only profit element on such purchases should be added and he estimated 12.5% of the

purchases and addition of Rs. 94,143/- was limited for AY 2009-10 and Rs. 2,52,266/- for AY 2010-11. Now the penalty has been levied u/s 271(1)(c) on this GP rate addition which has been confirmed by the first appellate authority.

6. None appeared on behalf of the assessee in spite of service of notice, therefore the appeal of the assessee is decided ex-parte after hearing the Ld. DR.

7. On the perusal of the impugned order, it is seen that the addition was made in the assessment order on account of bogus purchases and the entire purchase amount was added by the AO from the alleged parties. First Appellate Authority, i.e. Ld. CIT(A) has held that assessee has only tried to suppress the profit, not that purchases has been made outside the books and accordingly, GP rate was estimated @ 12.5%. It is not disputed that the source of purchase has been shown from the books of accounts and is part of the trading account. The assessee is engaged in the business of manufacturing of lanolin anhydrous of various grades. There is no finding that there is mismatch in the purchase quantity or sale quantity or any defect in the manufacturing account. The assessee

might have procured purchase bills for raw material after paying through cheques the source of which is from the books of account and might have bought the material from various other parties through cash. However, the fact of the matter is the entire purchase and sales and trading account has not been disputed nor the overall GP rate has been tinkered. The addition ultimately has been made on estimation of GP rate on purchase. Hence it cannot be held that there is any concealment of income or furnishing of inaccurate of particulars of income. Therefore, penalty levied and sustained by the First Appellate Authority directed to be deleted.

8. In the net result, both the appeals filed by the assessee are **allowed.**

Orders pronounced in the open court on 7th July, 2022.

Sd/-

(S. Rifaur Rahman)
Accountant Member

मुंबई Mumbai;दिनांक Dated : 07/07/2022
Sr.PS. Dhananjay

Sd/-

(Amit Shukla)
Judicial Member

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./ Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai