

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "E": MUMBAI

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER
AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER

ITA No. 1079 & 1080/Mum/2022
Assessment Year 2009-10 & 2010-11

Thakor Electronics Limited P1,P2, Shree Raj Laxmi Hi- Tech Textile Part, Nashik By Pass Road, Sonale, Bhiwandi, Mumbai-421302. PAN. No. AABCT4323M	vs .	National Faceless Appeal Centre (NFAC) Delhi.
(Appellant)		(Respondent)

For Assessee :	Shri Tanzil R. Padvekar
For Revenue :	Shri Airiju Jaikar, Sr. AR

Date of Hearing:	28.07.2022
Date of Pronouncement :	05.08.2022

ORDER

PER ANIKESH BANERJEE, J.M.

Two instant appeals were filed by the Assessee against the order of the Learned Commissioner Income Tax (Appeals), NFAC, Delhi [in short CIT(A)]. Both are identical

in nature and having separate orders that were passed u/s 250 of the Income Tax Act, 1961 (in short 'Act') both dated 23.03.2022 for assessment years 2009-10 & 2010-11. Both orders are generated from the order of learned Assistant Commissioner of Income Tax, Circle-1, Kalyan (in short "AO") passed u/s 271(1)(c) of the Act dated 27.03.2018.

1.1 Administrated at outset that the relevant factual backdrop as well as the issue involved both the cases are identical. We therefore treat the first appeal in ITA No. 1079/Mum/2022 for the assessment year 2009-10 as a lead case.

2. We advert to the basic relevant facts the assessee is doing business of manufacturing of resistances and operates under the name and style of M/s Thakor Electronics Ltd. had been assessed to the Income Tax by the ld. AO for the assessment years 2009-10. The assessment was completed u/s 143(3) r.w.s 147 of the Act vide order dated 20.03.2015 and assessed the total income of Rs. 1,16,66,550/- as against the return income of Rs.

38,92,511/-. The addition was made on account of unsubstantiated purchases amounting to Rs. 77,73,415/- and Rs. 625/- on account of deduction under chapter VIA of the Act for the assessment year 2009-10. The assessee had then filed an appeal before the Ld. CIT(A) against the addition on account of unsubstantiated purchases amounting to Rs. 77,73,415/- and the disallowance was sustained @ 25%. After giving effect to the same the order was passed dated 03.10.2016 by the ld.AO. The Ld. A.O. proceed the penalty u/s 271(1)(c) of the Act and levy of penalty on concealed income to extent of Rs. 19,43,354/- and penalty was calculated of Rs. 6,66,690/- which is 100% of the tax amount. Aggrieved the assessee filed an appeal before the Ld. CIT(A). In quantum appeal against the order of appellate authority, the ITAT had restricted the quantum addition @ 12.5% of bogus purchase. As a result, the addition had been reduced to Rs. 9,71,677/- accordingly. The penalty was calculated and levied amounting to Rs. 3,00,247/- u/s 271(1)(c) of the Act.

2.1 The learned counsel of the assessee argued and placed that after the order of the assessing authority u/s 143(3)/147 of the Act, the assessee filed an appeal to Ld. CIT(A) and finally the order was challenged to ITAT. The ITAT has reduced the quantum addition and sustained the addition @ 12.5% of bogus purchase. The order of the ITAT bearing in **ITA No. 6427/Mum/2016 for the assessment 2009-10 and ITA No. 6484 & 6485/Mum/2016 for the assessment years 2009-10 & 2010-11**. The addition was fully on basis of estimated addition on bogus purchase. The learned counsel relied **on the order of the Coordinate Bench in the case of M/s S4 Interior vs. ACIT in ITA No. 4422/Mum/2017 dated 26.09.2018** A.Y. 2009-10. As per this order the penalty on estimated addition was deleted.

3. The ld. DR only relied on the order of the Revenue Authorities. No other contrary view was taken by the ld. DR against the submission of the assessee.

4. We heard the rival submission and relied on the documents available in the record. The addition was made

by the Revenue Authorities on bogus purchase. Later, the addition was reduced by the order of ITAT @ 12.5% of bogus purchase & estimated addition was made. The penalty on estimated addition is contrary view of Coordinate bench discussed above. The ld. DR did not make any strong objection against the assessee's submission. Here we are directing to delete the penalty amounting to Rs. 3,00,247/- imposed by the A.O. u/s 271(1)(c) of the Act.

5. In the result, the appeal of the assessee bearing ITA No. **1079/Mum/2022** and ITA No. **1080/Mum/2022** are allowed.

Order pronounced in the open Court on 05.08.2022.

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Sd/-
(ANIKESH BANERJEE)
JUDICIAL MEMBER

Mumbai, Dated 5th August, 2022

Santosh/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'E' Bench, Mumbai
6.	Guard File.

// By Order //

Assistant Registrar : ITAT Delhi Benches : Mumbai

Sl.No.	Particulars	Date	
1.	Date of Dictation	03.08.2022	Sr. P.S.
2.	Date of draft order placed before the Hon'ble Member	04.08.2022	Sr. P.S.
3.	Date of draft order approved by the Hon'ble Second Member		JM/AM
4.	Date of receipt of approved draft order		Sr. P.S.
5.	Date of pronouncement		Sr. P.S.
6.	Order uploaded on the website of the Tribunal		Sr. P.S.
7.	Order sent to Bench clerk		Sr. P.S.
8.	Order signed by the Head Clerk		
9.	Order Signed by Asst. Registrar		
10.	Date of Dispatch of order		