

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C" MUMBAI**

**BEFORE SHRI ABY T VARKEY (JUDICIAL MEMBER) AND
SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**

**ITA No. 963/MUM/2022
Assessment Year: 2011-12**

Income Tax Officer-20(1)(1),
Room No. 110, 1st floor, Piramal
Chamber,
Mumbai-400012.

Vs.

Iqbal Ismail Lokhandwala,
Prop-M/s Perfect Steel
Traders, 51, New Darukhana,
Sonapur Lane,
Mumbai-400010.
PAN No. ABYPL 2053 P
Respondent

Appellant

Assessee by : None
Revenue by : Mr. Ujjawal Chavhan, DR

Date of Hearing : 27/09/2022
Date of pronouncement : 27/09/2022

ORDER

PER OM PRAKASH KANT, AM

This appeal by the Revenue is directed against the order dated 12.03.2022 passed by the National Faceless Appeal Centre (NFAC), Delhi (in short 'the FAA or First Appellate Authority'), for assessment year 2011-12. The grounds raised by the Revenue are reproduced as under:



1. *"Whether the facts and circumstances of the case and in law, the Ld.CIT(A) is right in deleting the addition at the rate 12.5% suspicious purchases of Rs. 3,81,82,622/- by ignoring the fact that the action of the Assessing Officer was based on credible information received from the Maharashtra Sales Tax Department and that the assessee, during the course of assessment proceedings, failed to prove the genuineness the purchase transactions."?*
2. *"Whether on the facts and in the circumstances of the case and in law, Ld.CIT(A) is right in deleting the addition bogus purchases without appreciating the fact that the assessee had failed to establish the genuineness of the alleged parties from whom purchases is claimed to have been made during the year"?*
3. *"Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) is right in deleting the addition on bogus purchases without appreciating the fact that the assessee could not produce the alleged parties from whom purchases is claimed to have been made during the year?"*
4. *"Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) is right in deleting the addition on bogus purchases without appreciating the fact that the Sales Tax Department as well as the DGIT (Inv.), Mumbai during their course of investigations found the alleged parties to be providing only accommodation/bogus purchase bills?"*



2. None attended on behalf of the assessee despite notifying. It was brought to the notice of the Ld. Departmental Representative (DR) that tax effect in the appeal was only ₹14,01,886/- which being below monetary limits as prescribed in CBDT Circular No. 17/2019, the appeal need to be withdrawn by the Revenue. The Ld. DR submitted that the appeal falls under exception to the said Circular (supra) informed by the CBDT *vide* letter dated 20.08.2018 as under:

“10. Adverse judgments relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 above or there is no tax effect:

(a) Where the Constitutional validity of the provisions of an Act or Rule is under challenge, or

(b) Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or

(c) Where Revenue Audit objection in the case has been accepted by the Department, or



*(d) Where addition relates to undisclosed foreign income/
undisclosed foreign assets (including financial assets)/
undisclosed foreign bank account.*

*e) Where addition is based on information received from
external sources in the nature of law enforcement agencies
such as CBI! ED! DRI! SFIO! Directorate General of GST
Intelligence (DGGI).*

*(f) Cases where prosecution has been filed by the Department
and is pending in the Court.”*

3. As per para 10(e) of the above CBDT letter, if addition is based on information received from external agencies, then said appeal shall not be covered by tax effect circular (supra). On perusal of the assessment order we find that it is not getting established whether the addition is based on the information received from the external agencies, and therefore, according to us, the appeal under consideration is covered by the CBDT Circular No. 17 of 2019 which prescribed that appeal to ITAT is not to be filed if tax effect involved is upto ₹50,00,000/-. Therefore, this appeal of the Revenue is dismissed with the liberty to the Revenue for filing Miscellaneous



Application for recalling the order in case it is found that the case falls under any of the exception to the CBDT Circular (supra).

4. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open Court in 27/09/2022.

Sd/-

**(ABY T VARKEY)
JUDICIAL MEMBER**

Sd/-

**(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;

Dated: 27/09/2022

Dragon Legal/Rahul Sharma, Sr. P.S.

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.

//True Copy//

BY ORDER,

(Sr. Private Secretary)
ITAT, Mumbai