

IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” Bench, Mumbai  
Before Shri B.R. Baskaran (AM)

I.T.A. No. 3239/Mum/2015  
(Assessment Year 2009-10)

Sargam Foods Pvt. Ltd. 69, Yusuf Meharali Road, Masjid Mumbai-400 003. (Appellant)	Vs.	CIT(A)-14 Mumbai (Respondent)
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PAN No.AACS5364C

Assessee by	None
Department by	Shri Kailash Gaikwad
Date of Hearing	13.10.2016
Date of Pronouncement	13.10.2016

ORDER

The assessee has filed this appeal challenging the order dated 25.3.2015 passed by Ld CIT(A)-14, Mumbai confirming penalty of Rs.6,79,800/- levied by the AO u/s 271(1)(c) of the Act in AY 2009-10.

2. None appeared on behalf of the assessee even though the notice of hearing was sent by registered post on more than one occasion. Hence I proceed to dispose of the appeal ex-parte, without the presence of the assessee.

3. I heard Ld D.R and perused the record. The relevant facts are that the assessee was subjected to survey operations u/s 133A of the Act on 31.7.2008. During the course of survey, excess stock of Rs.20,36,407/- and cash shortage of Rs.1,31,951/- were noticed. Accordingly the assessee agreed to offer a sum of Rs.22,00,000/- as its additional income and also issued cheques towards the tax liability. But the cheques were dishonoured and the assessee also did not declare the amount in the return of income. Hence the AO reopened the

assessment u/s 148 and in the return filed in response thereto also, the assessee did not declare additional income of Rs.22.00 lakhs. Subsequently, when the assessing officer asked queries about the additional income, the assessee filed a revised return of income on 28-3-2013 offering the additional income. The AO completed the assessment by accepting the income declared in the revised return of income.

4. The AO initiated penalty proceedings and in response thereto, the assessee submitted the additional income was offered to buy peace from the department and not to litigate in this matter further. The AO was not convinced with the explanations and hence levied penalty of Rs.6,79,800/- u/s 271(1)(c) of the Act. The Ld CIT(A) also confirmed the same by following the decision rendered by Hon'ble Supreme Court in the case of MAK Data Ltd (2014)(1 SCC 674).

5. I have gone through the order passed by Ld CIT(A) and I notice that the Ld CIT(A) has passed a reasoned order by placing reliance on the decision rendered by Hon'ble Supreme Court in the case of MAK Data Ltd (supra). Before me, the assessee has not filed any material to show that the order passed by Ld CIT(A) was not in accordance with the law. Hence I do not find any reason to interfere with his order. Accordingly I confirm the order passed by Ld CIT(A).

6. In the result, the appeal filed by the assessee is dismissed.

Order has been pronounced in the Court on 13.10.2016

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

Mumbai; Dated : 13/10/2016

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//

*PS*

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai