

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "F", MUMBAI**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER**

**ITA No.4085/M/2013
Assessment Year: 2011-12**

M/s. VJTF Eduservices Ltd. (Erstwhile Vinay Jain's Training Forum Pvt. Ltd.), 1 st Floor, Neel Kanth Apartment, Ramchandra Lane, Near Allahabad Bank, Malad (W), Mumbai - 64 PAN: AAACV8708P	Vs.	Income Tax Officer, Ward – 9(3)(3), Mumbai
(Appellant)		(Respondent)

Present for:

Assessee by : Ms. Shloka Jain, A.R.
Revenue by : Shri Jeetendra Kumar, D.R.

Date of Hearing : 29.12.2015
Date of Pronouncement : 29.12.2015

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 12.03.2013 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2011-12.

2. The assessee has agitated the confirmation of the levy of penalty of Rs.19,119/- under section 221(1) of the Act. At the outset, the Ld. A.R. of the assessee has explained that in this case the assessee filed return of income, however inadvertently the self assessed tax was not paid. When the Assessing Officer (hereinafter referred to as the AO) issued notice under section 221(1) of the Act, the assessee realized its mistake and promptly paid the due tax along with interest. However, the AO imposed penalty of Rs.19,119/- under section 221(1) of the Act for not depositing the tax before the due date of filing

of the return of income. The Ld. A.R. of the assessee has explained that in the past the assessee had never committed any default in depositing the tax. The tax for the year under consideration could not be deposited because of inadvertence as the same escaped the attention of the assessee. The moment, matter came to the knowledge of the assessee immediately the tax was deposited along with interest. Hence, the assessee may not be treated as assessee in default and that the penalty be not imposed.

3. Considering the submissions of the Ld. A.R., we accept the explanation given by the Ld. A.R. that there was no intention to delay the payment of tax or otherwise to avoid it. Because of the reason that due to some mistake on the part of the staff, the tax was not deposited in due time but the moment matter came to the knowledge of the assessee, the tax was immediately deposited along with interest. Hence, under these circumstances, we do not find it a fit case for levy of penalty under section 221(1) of the Act. The penalty imposed is therefore ordered to be deleted.

4. In the result, the appeal of the assessee is hereby allowed.

Order pronounced in the open court on 29.12.2015.

Sd/-
(Ramit Kochar)
ACCOUNTANT MEMBER

Sd/-
(Sanjay Garg)
JUDICIAL MEMBER

Mumbai, Dated: 30.12.2015.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.