

**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE S/SHRI N.S SAINI, ACCOUNTANT MEMBER
AND PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA No.22/CTK/2016
Assessment Year : 2010-2011

Printlink Computer and Communication Pvt Ltd., Plot No.783, Sahid Nagar, Bhubaneswar.	Vs.	ACIT, Circle 2(2), Bhubaneswar.
PAN/GIR No.AABCP 0619 G		
(Appellant)	..	(Respondent)

Assessee by : Shri B.K.Mohapatra, AR
Revenue by : Shri D.K.Pradhan, DR

Date of Hearing : 31/07/ 2017
Date of Pronouncement : 31 /07/ 2017

ORDER

Per N.S.Saini, AM

This is an appeal filed by the assessee against the order of the CIT-1, Bhubaneswar dated 6.10.2015 for the assessment year 2009-2010.

2. The sole issue involved in this appeal is that the Id CIT(A) erred in confirming the action of the Assessing Officer in imposing penalty under section 271(1)(b) of the I.T.Act, 1961 for Rs.10,000/-

2. The brief facts of the case are that the Assessing Officer issued notices u/s.142(1) and 143(2)of the Act requiring the assessee to produce the books of account and other details. Since, there was no compliance by the assessee, to the statutory notice the Assessing Officer levied penalty of Rs.10,000/- u/s.271(1)(b) of the Act.

4. On appeal, Id CIT(A) confirmed the penalty levied by the Assessing Officer.

5. Before us Id A.R. of the assessee submitted that Id A.R. of the assessee had fully co-operated in the assessment proceedings and assessment was completed u/s.143(3) of the Act, as can be seen from the assessment order u/s.143(3) of the Act passed on 8.3.2013. Hence, it cannot be said that there was no compliance by the assessee to the statutory notices issued by the Assessing Officer. Hence, he prayed that the penalty should be deleted.

6. On the other hand, Id D.R. supported the orders of lower authorities.

7. After hearing the rival submissions and perusing the orders of lower authorities and materials available on record, we find from the assessment order that the Assessing Officer has stated in his order that before him the Id A.R. of the assessee appeared and filed written submissions. The Assessing Officer also admits in the assessment order that Id A.R. produced bills and vouchers in support of the claim of deduction. The only ground on which penalty u/s.271(1)(b) of the Act has been levied by the Assessing officer is that the assessee did not comply with the statutory notices before him. In the similar facts and circumstances of the case, we find that the Ahmedabad Bench of this Tribunal in the case of M/s.Raj Enterprise vs ITO, Ward-9(1) in ITA No.958/Ahd/2011 [Asstt. Year: 2007-08] order dated 4.5.2011 has held that when an assessment has been made under sec.143(3) and not under sec.144 of the [I.T. Act](#), it means that subsequent

compliance in the assessment proceedings was considered as good compliance and the defaults committed earlier were ignored by the Assessing Officer and, therefore, there is no case for levy of penalty under sec.271(1)(b) of the Act. We find that in the present appeal also, the facts are identical. Therefore, respectfully following the decision of Ahmedabad Tribunal in the case of M/s.Raj Enterprise (supra), we set aside the orders of lower authorities and delete the levy of penalty of Rs.10,000/- under sec.271(1)(b) of the **I.T. Act** and allow the appeal of the assessee.

8. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 31/07/2017.

Sd/-

sd/-

(Pavan Kumar Gadale)
JUDICIALMEMBER

(N.S Saini)
ACCOUNTANT MEMBER

Cuttack; Dated 31 /07/2017
B.K.Parida, SPS

Copy of the Order forwarded to :

1. The Appellant : Printlink Computer and Communication Pvt Ltd., Plot No.783, Sahid Nagar, Bhubaneswar.
2. The Respondent. ACIT, Circle 2(2), Bhubaneswar.
3. The CIT(A)-1, Bhubaneswar
4. Pr.CIT-1, Bhubaneswar,
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY
ITAT, Cuttack