



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

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

ITA No.80 & 81/Rpr/2015

Assessment Year : 1997-98 & 1998-99

Indradev Shrivastava, Kondagaon (C.G.)	Vs.	ITO, Jagdalpur (C.G.)- 494001
PAN/GIR No. ACFPS 6736 P		
(Appellant)	..	(Respondent)

Assessee by : None
Revenue by : Mrs. Shabana Parveen, DR

Date of Hearing : 18/01/ 2018
Date of Pronouncement : 19 /01/ 2018

ORDER

Per Pavan Kumar Gadale, JM

These are the appeals filed by the assessee against the order of the CIT(A)-Raipur, dated 25.03.2015 for the assessment year 1997-98 & 1998-99. Since issue involved in both the appeals is common, for the sake of convenience, we take up the appeal in ITA No.80/Rpr/15 for consideration.

2. The assessee is aggrieved by the confirmation of penalty of Rs.10,000/- levied u/s.271(1)(b) of the Act.

3. Briefly stated the facts are that the Assessing Officer on the basis of information received from District Authorities regarding transaction in agricultural and forest produce, issued notice u/s.148 of the Act. Further, he



7. None appeared on behalf of the assessee when the case was called for hearing. However, a paper book has been filed before us. Hence, we proceed to dispose of the appeals *ex parte* qua the assessee on the basis of materials available on record and after hearing *Id D.R.*

8. *Ld D.R.* supported the orders of lower authorities. *Ld D.R.* submitted that the assessee in an ulterior motive avoided to attend the hearing before the Assessing Officer, therefore penalty was rightly imposed.

9. We have heard the rival submissions, perused the orders of lower authorities and materials available on record. *Prima facie*, the contention of the assessee as per the submission filed before us that the assessee against the original assessment order passed u/s.144 filed appeal before the CIT(A) and CIT(A) has granted part relief to the assessee. Subsequently, the Assessing Officer has passed order giving appeal effect to the quantum appeal and the income is below the taxable limit and no tax is leviable. The department has not filed appeal against the order of the CIT(A) before the ITAT and the matter has become final. Considering these facts, it was pleaded in the written submission that the penalty be cancelled. Reliance was placed on the decision of Hon'ble Supreme Court in the case of *Hindustan Steel Ltd., 83 ITRR 26(SC)*, wherein, it has been held as under:



ITA No.80 & 81/Rpr/2015
Assessment Year : 1997-98 & 1998-99

Copy of the Order forwarded to :

1.	The Appellant : Indradev Shrivastava, Kondagaon (C.G.)
2.	The Respondent. , Jagdalpur (C.G.)- 494001
3.	The CIT(A)- Raipur
4.	Pr.CIT- Raipur
5.	DR, ITAT, Raipur
6.	Guard file. //True Copy//

BY ORDER,

SR.PRIVATE SECRETARY
ITAT, Raipur