

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**AHMEDABAD “SMC” BENCH**

**(BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER  
& SHRI MAHAVIR PRASAD, JUDICIAL MEMBER)**

**ITA. No: 2504/AHD/2014  
(Assessment Year: 2008-09)**

<b>Sandeep Navinchandra Patel 55, Somnath Nagar Vijaynagar Rd, Naranpura, Ahmedabad- 380013</b>	<b>V/S</b>	<b>Income Tax Officer, Ward- 9 (4), Ahmedabad</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

**PAN: ABCPP 4875F**

**Appellant by : Shri S. N. Divetia, AR  
Respondent by : Shri R. P. Maurya, Sr. D.R.**

**(आदेश)/ORDER**

Date of hearing : 13 -12-2017

Date of Pronouncement : 18 -12-2017

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER**

1. This appeal by the Assessee is preferred against the order of the Ld. CIT(A)-  
XV, Ahmedabad dated 04.06.2014 pertaining to A.Y. 2008-09.

2. The assessee is aggrieved by the levy of penalty u/s. 271(1)(c) of the Act amounting to Rs. 2,40,617/-.
3. The roots for the levy of penalty lie in the assessment order dated 08.12.2011 framed u/s. 143(3) r.w.s. 147 of the Act.
4. During the course of the scrutiny assessment proceedings, the A.O. on the basis of AIR information found that the assessee has received contractual receipt of 18,00,559/-. The A.O. further found that the assessee was maintaining a bank account with Kalupur Commercial Co.Op Bank bearing account no. 0820102046 which was not disclosed to the department in which various credit entries of cash and cheques are appearing.
5. The assessee was asked to explain the sources of deposits made in the said bank account which was not disclosed to the department. In its reply, the assessee simply stated that he is not maintaining proper books of accounts and therefore, the said account was left to be shown and offered profit of Rs. 2,47,338/-.
6. The A.O. did not accept the contention of the assessee and added Rs. 6,83,100/- as unaccounted income from undisclosed sources and separately initiated penal proceedings u/s. 271(1)(c) of the Act.
7. During the course of the penalty proceedings, the assessee was asked to explain why penalty should not be levied on the undisclosed deposit of Rs.

- 6,83,100/- in the Kalupur Commercial Co.Op Bank. On receiving no plausible reply, the A.O. levied penalty of Rs. 2,40,617/-.
8. Assessee carried the matter before the Id. CIT(A) but without any success.
9. Aggrieved by this, the assessee is before us. The Id. counsel for the assessee once again stated that he has offered Rs. 2,47,338/- as profit earned from the deposits made in the said bank account. Therefore, no penalty should be levied. The Id. D.R. strongly supported the findings of the A.O.
10. We have given a thoughtful consideration to the orders of the authorities below. There is no dispute that once the assessee was caught with undisclosed transactions and undisclosed bank account, the assessee offered income in the form of profit out of the said transaction. We find that there is no basis in respect of such profit offered by the assessee. The assessee was already in the business of four operations and had disclosed a profit of Rs. 1,64,722/-.
11. If the revenue had not come across the said transactions in the bank account with Kalupur Commercial Co.Op Bank, the assessee would never have disclosed the said bank account to the revenue.
12. In our considered opinion, this is a clear case of concealment of the bank account and the concealment of the transactions made in the said bank account. On facts of the case, the levy of penalty is justified and therefore no reason is called for to interfere with the findings of the Id. CIT(A).

13. In the result, the appeal filed by the Assessee is accordingly dismissed.

Order pronounced in Open Court on 18 - 12- 2017

Sd/-

**(MAHAVIR PRASAD)**  
**JUDICIAL MEMBER True Copy**  
Ahmedabad: Dated 18/12/2017

Sd/-

**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER

Deputy/Asstt.Registrar  
ITAT,Ahmedabad