

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

**BEFORE SHRI D.T. GARASIA, JUDICIAL MEMBER AND
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

**ITA No.6188/M/2013
Assessment Year: 2000-01**

Shri Narayan Mannappa Kotian, C/o. Adv. N.A. Kulkarni, 1 st Floor, Wadal Building, Near DNSB Bank, Dombivli (East) PAN: ABHPK3777E	Vs.	Income Tax Officer, Ward 3(2), Rani Mention, 2 nd Floor, Murbad Road, Kalyan (W), Thane, Maharashtra.
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Shri T.A. Khan, D.R.

Date of Hearing : 05.12.2017
Date of Pronouncement : 12.01.2018

ORDER

Per D.T. GARASIA, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 23.08.2013 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2000-01.

2. The only effective ground is against confirming the penalty under section 271(1)(c) of the Act. The short facts of the case are as under:

On 14.03.2001 the assessee filed a letter before the Assessing Officer (hereinafter referred to as the AO) revising the figure of additional income declared at Rs.19,03,800/- as under:

Total calculated amount	Rs.22,06,200/-
Add: The cost of the land of his bungalow Needs to be added at the rate of Rs.200/- per sq.yd/ for 217 sq. yds	<u>Rs. 43,400/-</u> Rs.22,49,600/-
Less: Amount to be reduced for five flats from Nityanand Cyaha Soc. – 5 Flats 2258 sq. ft. * 100 (allotted to Govt. of Mah. For weaker sections)	<u>Rs. 2,25,800/-</u> Rs.20,23,800/-
Less: The difference on account of land to be deducted	<u>Rs. 1,20,000/-</u> Rs.19,03,800/-

The assessee, however, did not file any return of income offering the above mentioned income for taxation. Notice u/s 148 of the Act dated 05.03.2003 was issued and served on the assessee on 06.03.2003. On 01.04.2003, the assessee filed a letter before the AO requesting for copies of documents/statement recorded during the course of survey. The same were supplied to the assessee on 07.04.2003. Still no return of income was filed by the assessee. Subsequently, notices u/s 143(2) & 142(1) were issued and the assessment was completed after making the addition of Rs.19,03,800/-, which the assessee had himself disclosed during the course of survey and subsequently by filing the letter before the AO.

The show cause notice was given and after show cause notice the AO has levied the penalty of Rs.6,28,254/-.

3. None appeared on behalf of the assessee. After going through the record, we find that Ld. CIT(A) has rightly decided the appeal and confirmed the penalty by observing as under:

“11. I have carefully considered the submissions of the appellant and the facts of the case. The appellant himself had declared additional income during the course of survey at his premises on 13.03.2001, which was ultimately agreed at Rs. 19,03,800/- vide his letter dated 14.03.2001 filed before the A.O. The contention of the appellant that the declared income pertained to assessment year 2001-02 and not to the assessment year 2000-01, in which the A.O. has assessed the same, is without any basis because the appellant has neither offered this income for taxation in AY 2000-01 nor in AY2001-02. Moreover, nothing has been brought on record by the appellant to show that the income declared by him during the course of survey and subsequently by filing a letter on next day, had not been earned by him. Still the appellant did not file any return of income offering the same for taxation. The AO was, therefore, right in imposing penalty u/s 271(1)(c) of the I.T. Act, in respect of this admitted income which was not offered for taxation even after issue of notice u/s. 148 of the I.T. Act. Therefore, penalty amounting to Rs.6,28,254/- u/s. 271(1)(c) of the I.T. Act, is confirmed.”

4. In the result, appeal is dismissed.

Order pronounced in the open court on 12.01.2018.

Sd/-
(G. Manjunatha)
ACCOUNTANT MEMBER
Mumbai, Dated: 12.01.2018.

Sd/-
(D.T. Garasia)
JUDICIAL MEMBER

* 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.