

IN THE INCOME TAX APPELLATE TRIBUNAL
RANCHI BENCH (SMC), RANCHI

[Before Hon'ble Shri J. Sudhakar Reddy]

I.T.A. No. 299/Ran/2016
Assessment Year : 2009-10

Income Tax Officer.....*Appellant*
Ward No. 1(5),
47, C.H. Area,
Jamshedpur – 831 001.

Shri Ashok Agarwal.....*Respondent*
Mahato Para Road,Jugsalai,
Jamshedpur – 831 001.
[PAN: AKFPA 5902 J]

Appearances by:

Shri P.K. Mondal, JCIT appearing on behalf of the Revenue.
Shri Devesh Poddar, Advocatel appearing on behalf of the Assessee.

Date of concluding the hearing : February 22, 2018

Date of pronouncing the order : February 28 , 2018

ORDER

This is an appeal filed by the revenue directed against the order of CIT (Appeals) Jamshedpur dated 16.08.2016 for the assessment year 2009-10.

2. The issue is whether interest u/s 234A and 234B is to be levied only on the total income disclosed by the assessee in the return of income or on the total income determined by the A.O. in the assessment order i.e. assessed income. The Hon'ble Jharkhand High Court in T.A. No. 38 of 2010 order dated 25th July, 2012 in the case of Ajay Prakash Verma vs. ITO, Dhanbad reported in 2013(1) TMI 140 has held that interest u/s 234A and 234B can be levied only on the income declared by the assessee in the return of income. The Hon'ble Jharkhand High Court in I.A. No. 5725 of 2014 in Civil Review No. 66

of 2013 judgment dated 1st September, 2015 dismissed the civil review application filed by the department on this issue in this very case of Ajay Prakash Verma. Respectfully following the propositions of law laid down by the jurisdictional High Court, I direct the A.O. to levy interest u/s 234A and 234B only on the income returned by the assessee and not on the income assessed by the A.O.

3. In the result, the appeal of the revenue is dismissed.

Order Pronounced in the Open Court on 28th February, 2018.

Sd/-
(J. Sudhakar Reddy)
ACCOUNTANT MEMBER

Dated: 28/02/2018

Biswajit, Sr. PS

Copy of order forwarded to:

1. Shri Ashok Agarwal, Mahato Para Road, Jugsalai, Jamshedpur – 831 001.
2. ITO, Ward 1(5), 47, C.H. Area, Jamshedpur – 831 001.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Sr. P.S. / H.O.O.
ITAT, Ranchi