

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री भागचंद, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI BHAGCHAND, AM

आयकर अपील सं./ITA No. 621/JP/2015
निर्धारण वर्ष / Assessment Year : 2008-09

Shri Hardeep Singh Randhawa, Prop.- M/s Rajdhani Gas Service, 236, Mehta Marg Corner, Galta Road, Suraj Pole Bazar, Jaipur.	बनाम Vs.	D.C.I.T., Circle-5, N.C.R. Building, C- Scheme, Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ABZPR 2720 C		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri H.M. Singhvi (CA)
राजस्व की ओर से / Revenue by : Smt. Seema Meena (JCIT-DR)

सुनवाई की तारीख / Date of Hearing : 14/06/2018
उदघोषणा की तारीख / Date of Pronouncement : 20/07/2018

आदेश / ORDER

PER: BHAGCHAND, A.M.

The appeal filed by the assessee emanates from the order of the Id. CIT(A)-2, Jaipur dated 25/03/2015 for the A.Y. 2008-09. The main issue involved in the appeal is confirming the penalty imposed by the Assessing Officer U/s 271(1)(c) of the Income Tax Act, 1961 (in short the Act). In this appeal, the assessee has also taken a plea that the Id. CIT(A) was wrong in dismissing the ground regarding the permission sought by the Assessing Officer from Addl.CIT.

2. The assessee is engaged in the business of trading of LPG Cylinder and also earned interest income. Return declaring total income of Rs. 8,41,720/- was filed on 31/3/2009. The case of the assessee was selected for scrutiny under CASS. The Assessing Officer finalized the assessment U/s 143(3) of the Act on 20/12/2010 and assessed total income of Rs. 37,75,147/-. The Assessing Officer initiated proceedings U/s 271(1)(c) of the Act on undisclosed income and levied the penalty of Rs. 10,17,829/-, which is 100% of the tax sought to be evaded. The Id. CIT(A) has confirmed the levy of penalty.

3. Now the assessee is in appeal before the ITAT. While pleading on behalf of the assessee, the Id AR has reiterated the arguments as made before the Id. CIT(A). He has further submitted as under:

The assessee is carrying on business under the name and style of M/s Rajdhani Gas Service at Jaipur since 1981. The assessee is also Director of M/s Tiger Continental Wild Life Resorts Ltd. The company entered into an agreement for the sale of the resorts land with constructed portion with Suresh Agarwal, Dinesh Agarwal, Vijay Bansal Ajay Bansal, for a sale consideration of Rs. 8,41,00,000/- on 29/03/2007. The company as per board resolution dated 26/02/2007 has authorized Mr. H.S. Randhawa "the assessee" to sign this agreement for and on behalf of the company. The company further resolved in board meeting held on 26/02/2007 to receive the cheques from the purchaser for advance in his own name. A copy of the resolutions are enclosed (See P.B. Pg. No. 9).

As per the agreement following buyers delivered the following post dated cheques in the name of Director Shri H.S. Randhawa as per the board resolution.

Name	Date	Cheque	Bank	Amt.
Dinesh Agarwal	30-03-2007	718737	Indusind Bank Ltd.	12,50,000.00
	30-03-2007	718738	Indusind Bank Ltd.	12,50,000.00
	30-03-2007	718739	Indusind Bank Ltd.	12,50,000.00
	02-04-2007	718740	Indusind Bank Ltd.	12,50,000.00
	02-04-2007	718741	Indusind Bank Ltd.	12,50,000.00
	03-04-2007	718742	Indusind Bank Ltd.	12,50,000.00
	03-04-2007	718743	Indusind Bank Ltd.	12,50,000.00
	04-04-2007	718744	Indusind Bank Ltd.	12,50,000.00
	04-04-2007	718745	Indusind Bank Ltd.	12,50,000.00
	05-04-2007	718746	Indusind Bank Ltd.	12,50,000.00
Suresh Agarwal	22-02-2007	605295	Indusind Bank Ltd.	6,00,000.00
	30-03-2007	108411	Indusind Bank Ltd.	10,00,000.00
	30-03-2007	108412	Indusind Bank Ltd.	10,00,000.00
	30-03-2007	108413	Indusind Bank Ltd.	10,00,000.00
	02-04-2007	108414	Indusind Bank Ltd.	10,00,000.00
	03-04-2007	108415	Indusind Bank Ltd.	10,00,000.00
	03-04-2007	108416	Indusind Bank Ltd.	10,00,000.00
	04-04-2007	108417	Indusind Bank Ltd.	10,00,000.00
	20-10-2007	920398	Indusind Bank Ltd.	10,00,000.00
	24-10-2007	920399	Indusind Bank Ltd.	10,00,000.00
	10-04-2007	Cash	Cash	5,00,000.00
Ajay Bansal	30-03-2007	467416	Indusind Bank Ltd.	10,00,000.00
	02-04-2007	467417	Indusind Bank Ltd.	10,00,000.00
	06-11-2007	687628	Indusind Bank Ltd.	10,00,000.00
	03-04-2007	467419	Indusind Bank Ltd.	10,00,000.00
	06-11-2007	687629	Indusind Bank Ltd.	10,00,000.00
	06-11-2007	687630	Indusind Bank Ltd.	10,00,000.00
Vijay Bansal	06-11-2007	905208	Indusind Bank Ltd.	9,00,000.00
	02-04-2007	624457	Indusind Bank Ltd.	9,00,000.00
	03-04-2007	624458	Indusind Bank Ltd.	9,00,000.00
	03-04-2007	624459	Indusind Bank Ltd.	9,00,000.00
	04-04-2007	624460	Indusind Bank Ltd.	9,00,000.00
	04-04-2007	905201	Indusind Bank Ltd.	9,00,000.00
	05-04-2007	905202	Indusind Bank Ltd.	11,00,000.00

Out of these cheques, the following cheques of the following parties were deposited in the personal bank account of the assessee in the bank of Rajasthan Ltd., Adarsh Nagar Branch, Jaipur. Out of these cheques some were honored and some were dishonored . The details of which are as under.:-

Name	Chq. No.	Amt.	Remarks
Dinesh Agarwal	718737-46	1,25,00,000.00	Honored

Suresh Agarwal	605295	06,00,000.00	Honored
	108411	10,00,000.00	Honored
	108412	10,00,000.00	Honored
	108413	10,00,000.00	Honored
	108414	10,00,000.00	Dishonored, Cash Rec.
	108415	10,00,000.00	Honored
	108416	10,00,000.00	Honored
	108417	10,00,000.00	Dishonored
	920398	10,00,000.00	Dishonored, Cash Rec.
	920399	10,00,000.00	Dishonored
Ajay Bansal	467416	10,00,000.00	Honored
	467417	10,00,000.00	Honored
	677628	10,00,000.00	Dishonored
	467419	10,00,000.00	Dishonored, Cash Rec.
	687629	10,00,000.00	Dishonored
	687630	10,00,000.00	Dishonored
Vijay Bansal	624456	09,00,000.00	Dishonored
	624457	09,00,000.00	Honored
	624458	09,00,000.00	Dishonored, Cash Rec.
	624459	09,00,000.00	Honored
	624460	09,00,000.00	Honored
	905201	09,00,000.00	Dishonored, Cash Rec.
	905202	11,00,000.00	Honored

The dishonored cheques were received back from the bank with the memorandum explaining the reason (referring to the drawers), copies of these bank intimation for dishonored cheques are enclosed (See P.B. Pg. No. 30-31). After giving intimation to the parties for dishonoring of the cheque, the assessee received cash in lieu of for the same dishonored cheque from the following persons.:-

Name of party	Dishonored Chq. No.	Amt.
Suresh Agarwal	108414, 108418	20,00,000.00
Ajay Bansal	467419	10,00,000.00
Vijay Bansal	624458,624461	18,00,000.00

And for the remaining dishonored cheques for which neither cash nor new cheques were received the assessee lodged legal case u/s 138 of Negotiation Instrument Act in the civil court of Jaipur, details are as follows.:-

Name of party	Dishonored Chq. No.	Amt.
Suresh Agarwal	108417, 108419	20,00,000.00
Ajay Bansal	687628,687629,687630	30,00,000.00
Vijay Bansal	624456	09,00,000.00

Before to proceed further, we would like to mention that the assessee was not maintaining any books of accounts of his individual transactions. The assessee was maintaining complete books of accounts of his business being in the name of M/s Rajdhani Gas Service and these accounts of business were audited u/s 44AB under the Income Tax Act. These audited accounts were filed with the AO during scrutiny.

No personal balance sheet was ever prepared in the past and in this year. The bank statement was filed before Assessing Officer during scrutiny. From the perusal of the bank statement there was a credit balance of Rs. 64,00,000/- as on 01-04-2007 thereafter the cheques received from the purchaser were credited, which were credited at the time of deposit but on receipt of intimation from the purchaser's bank, 6 cheques which were returned dishonored were debited in assessee's Bank A/c. Out of the honored cheques the assessee purchased one FDR for Rs. 50,00,000/- on 12-04-2007. Thereafter the assessee purchased another FDR on 25-04-2007 for 3500000/-. It will further be observed the assessee use to withdraw cash from the bank and if the same was not utilized was deposited back in the bank account . In this respect we are enclosing here with the cash account **(See P.B. Pg. No. 10)** for your kind perusal .From the statement your honor will note that upto 10-05-2007 the assessee Has withdrawn Rs2030000/- and out of that deposited back RS 1500000/- on 16-05-2007 & 17-05-2007 and thereafter a deposit on 21-08-2007 & 22-08-2007 was out of the cash balance available on 17-05-2007 and further withdrawal from the bank account household withdrawal were generally from Rajdhani Gas Service .

The assessee further had recovered from the buyer which was also available with assessee. Thus the deposit in the bank account were fully explained but the

Assessing officer added a sum of Rs. 2834000/- for which no detail were given in the Assessment order. Thus the Assessing Officer overlooked the basic facts of heavy withdrawal and deposit back in the bank account. Though the assessee has lost first quantum Appeal before CIT (Appeal) and filed Appeal before ITAT against CIT (Appeal) order, the same as pending before ITAT.

The Assessing Officer issued penalty notice u/s 271 (1) (c). Though no reply was given before the Assessing officer in penalty proceeding. But your honor has got all the power to consider the explanation now.

We may further bring to your kind notice the buyer have filed FIR against the assessee in Vaishali Nagar Police Station Jaipur the copy of the same is enclosed **(See P.B. Pg. No. 32-36).**

From the perusal of this FIR your honor will kindly note that the buyer have mentioned about the payment of part consideration through cheques & cash .Further these buyer have also filed civil case for the cancellation of the contract and to pay back the amount paid BY them in cash and cheque along with the interest .The court directed to refer to arbitration as per the clause in the agreement .And before the arbitrator have again confirm the payment of the part consideration in cash and through cheques. The arbitration proceeding is still pending before the arbitrator. These facts may kindly be considered in deciding the appeal

As per section 274 (2) it is mandatory and pre requisite condition to have prior approval of joint commissioner before passing any order imposing penalty under chapter 11 of INCOME TAX ACT .

SECTION 274 reads as under

274(1) no order imposing penalty under this chapter shall be made unless the assessee has been heard , has been given reasonable opportunity of being heard

(2) No order imposing penalty under this chapter shall be made –

(a) By the Income Tax officer , where the penalty exceeds RS 10000;

(b) By the Assistant Commissioner (or Deputy Commissioner) , where the penalty exceeds twenty thousand rupees,

Except with the prior approval of Joint Commissioner

(3) An Income Tax Authority on making an order under this chapter imposing a penalty , unless is himself the assessing officer shall forth with send the copy of such order to the Assessing officer

From the reading of the penalty order it is no where mentioned that the AO has taken prior Approval of Joint Commissioner as mentioned in sub-section (2) of 274.

In Circle-3 , Jaipur there was no Joint Commissioner at the time of passing of the penalty order .There was only one additional Commissioner of Income Tax .

The CIT(A) confirmed the action of the AO of imposing penalty u/s 271(1) (c).

The assessing officer made addition of cash deposit in the Bank by the assessee. The addition was made only on the ground that it was a cash deposit. Whereas the penalty was imposed taking a ground that the income escaped assessment and the income was concealed. The fact that cash deposit was a cash receipt against an agreement for sale of the shares of the company owned by the assessee. Even if it was not considered than it was am receipt against sale of an asset and was a declared receipt nothing was undisclosed. It was not an unexplained cash credit which the AO deliberately misunderstood.

Even if it is assumed that the penalty proceedings were initiated as stated in the penalty order dated:- 20/12/2010, the impugned order is illegal and bad in law since satisfaction for initiating penalty was not recorded in the assessment order except in the case of disallowance of cash deposit.

The CIT(A) mentioned in his order that the agreement for sale was produced and the cash deposit was fully explained still the Id. CIT(A) did not accept it proceeded in stereo type mode.

Therefore, on this ground alone the impugned order is liable to be set aside.

Penalty u/s 271(1) (c) was not imposed by the department in its own case.:-

1. The appellant submit that the Id. CIT(A) ought to have followed its earlier stand in the appellant own case under identical circumstances. Failure to do so vitiates the impugned order.
2. Further, it is settled law that merely because additions are made, penalty is not automatic.
3. Therefore, the impugned order is liable to be set aside.

Without prejudice, the finding of the CIT(A) is factually incorrect.:-

1. The cash in question along with cheque was received against a sale agreement of the hotel. The deal was to transfer the company to the buyers. Accordingly the shares were to be transferred to the buyers on completion of the transaction. Obviously then the sale proceeds will be received by the shareholders and fund cannot be deposited in the company account as observed by the Learned CIT(A).
2. The observation that nobody appeared or no explanation was given even after opportunity was given is absolutely in correct. In fact no notice was ever issued and served upon the appellant u/s 271 (1) (c)/274.
3. A complete explanation of the amount received and utilized was submitted in a written submission which has been quoted by the Ld. CIT(A) in his order even he claims that the case was not explained. The Learned Commissioner erred in making additions deliberately and willfully.
4. I fail to understand when the Learned CIT(A) admits that the cash receipt was explained and written submission was made how the receipt has been taken as income from undisclosed source. There is a set law by the **Honorable Supreme**

Court in CIT v. Reliance Petro chemical case that the officer imposing penalty must prove beyond doubt that there was intentional non disclosure which is not the case here.

5. The claim of appellant was bonafide. It is not either a case of concealment of particulars of income. Appellant has been able to substantiate as to how cash was received and deposited in the account. Therefore, Expl. 1 to section 271(1)(c) is also not attracted. In such a situation penalty is not leviable.

Therefore the finding of the Learned CIT(A) is exfacie incorrect. Hence, the impugned order is liable to be set aside.

Reliance is placed on CIT v. Pawan Kumar Garg 334 ITR 241. It has been held by the Hon'ble High Court as under.:-

“ Held dismissing the appeal that the officer who issued the warrant of authorisation on 25.05.2000 was not a Joint Director of Income-tax, but was the Additional Director of Income-tax (Investigation). Secondly, the notification that was necessary in the present case, was a notification by the Board in exercise of powers under Section 132(1) of the said Act. There is no such notification authorizing any Joint Director or Joint Commissioner. The notification dated 23.10.1998 on which the revenue seeks to place reliance is one which has been issued not by the Board, but by the Central Government and that too in exercise of powers under Section 117 (1) of the Act. There is no specific empowerment in favour of any Joint Director or Joint Commissioner under Section 132(1) of the said Act. Mere re-designation of a class of officers does not translate to the specific empowerment which is required under Section 132(1) of the said Act. The definition of Additional Director has been inserted with retrospective effect from 01.06.1994 by virtue of the [Finance Act, 2007](#), the definition of Joint Director was introduced as [Section 2 \(28D\)](#) for the first time in the said Act by virtue of the Finance No. (2) Act of 1998 w.e.f. 01.10.1998. Thus, there was no concept of a Joint Director prior to 01.10.1998. Thus, there was no concept of a Joint Director prior to 01.10.1998. Since the definition of Additional Director has been inserted with retrospective effect from 01.06.1994, the legislature clearly made the distinction between a Joint Director and an Additional Director. The manner in which the expression —Joint Director‖ has been used in [Section 132\(1\)](#) requires the same to be interpreted in its limited sense as meaning only the Joint Director and not an Additional Director of Income-tax. This is so because had the legislature intended to include an Additional Director of Income-tax, it would have done so specifically in [Section 132\(1\)](#) itself.”

And further it is submitted that assessee has explained about the full facts regarding the cash deposit in the bank account. It cannot be considered as concealed income of

the assessee nor filing the wrong particulars of the income in view of the following decision.

Hon'ble Supreme Court in the case of CIT v. Reliance Petro Products Pvt. Ltd. (See. P. B. of judgements Pg. No. 13-18)

“ Where there is no finding that any details supplied by the assessee in its return were found to be incorrect or erroneous or false. Such not being the case, there would be no question of inviting the penalty under s. 271(1)(c). A mere making of the claim, which is not sustainable in law, by itself, will not amount to furnishing inaccurate particulars regarding the income of the assessee, such a claim made in the return cannot amount to the inaccurate particulars.”

The ITAT Ahmedabad bench in ITO v. Bipin Chandra Velji (41 TTJ 347, 350) has held that.:- (See. P. B. of judgements Pg. No. 19-22)

“While an addition can be made on a balance of probabilities, penalty can be imposed only if the default is proved beyond reasonable doubt. Since, as stated above, another view is possible on the facts, it cannot be said the assessee's default is proved beyond reasonable doubt. On the basis of the above possible view the assessee could at least have entertained a bona fide belief that he had incurred a business loss. Also since a different view as indicated above is possible, this is not a fit case for levy of penalty.”

Similar view has been expressed in the case of *Buddish Chandra, Chiman Lal Shah v. ITO (43 TTJ 262)*

ITAT, Jaipur bench in the case of *Aditya Mills Ltd. v. IAC (44 TTJ 363, 375)* has held as under.:-

“ Certain circumstances or factors may have created suspicion but due to fact that full enquiry or investigation was not made or not possible to be made and sustained. But this cannot and would not suffice for the purpose of imposition of penalty. It is trite proposition that if both the possibilities are there then in the situation of lack of evidence it could not be justified so choose the once which leads to the inference of concealment. Taking into account the entirety of the facts and circumstances of the case, no case of penalty u/s 271 (1) (c) was made out.”

ITAT, Mumbai Bench has held in the case of *Shri Ishar Alloy and Steel Ltd. v. Asst. CIT (1999) 68 ITD 117, 124 (Mum.)*.:- (See. P. B. of judgements Pg. No. 23-29)

“The AO could not establish that the evidence adduced by the assessee was false or the claim of the assessee was not bona fide. While this lack of sufficient evidence may lead to disallowance of assessee's claim, in the absence of a positive finding regarding the falsity or impossibility of assessee's claim having been established by the AO, even on the basis of preponderance of probability, penalty under s. 271(1)(c) cannot be imposed.”

ITAT, Ahmedabad bench has held in the case of Standard Salt Works Ltd. v. ITO (2001) 73 TTJ (Ahmd) 71, 87:(See. P. B. of judgements Pg. No. 30-48)

“Particularly the documentary evidence in the shape of agreement between the parties, confirmation of receipt of payment, statement on oath of the persons giving full details of receipt of commission as also of services rendered by them, documentary evidence in the shape of income-tax returns submitted by the employees and the tax paid by them, admitted position that some withdrawals out of credited commission was made by the employees etc., it cannot be held that claim of commission was fictitious and the assessee made a fraudulent deduction. All the material at least raise a doubt on the finding recorded in the quantum proceedings and benefit of doubt has to be given to the assessee. Having regard to the overall picture, the present case cannot be taken as a fit case for levy of penalty under s. 271(1)(c).”

ITAT, Delhi bench has held in the case of Smt. SandhyaVerma v. ITO (2008) 114 TTJ (Del) 933,937,938:(See. P. B. of judgements Pg. No. 49-52)

“Even if the assessee was not able to substantiate its explanation but if such explanation was bona fide no penalty under s. 271(1)(c) is imposable. In the instant case bona fide of the assessee cannot be doubted. Thus, the AO was not justified to impose the penalty under s. 271(1)(c) on the assessee.”

ITAT, Jaipur Bench has held in the case of Parasmal Parekh v. CIT (1996) 58 ITD 34, 41, 42 (JP):(See. P. B. of judgements Pg. No. 53-65)

“ By virtue of explanation 1 to section 271(1) (c), though presumption were raised against the assessee, those were rebuttable presumptions. And in the process of rebuttal, if the explanation of the assessee was not accepted or was found to be false, that itself would not constitute sufficient material to attract penal provisions. The entirety of circumstances must point to the conclusion of concealment before penalty could be imposed. This principle has been enunciated by their Lordships in Calcutta High Court in the case of CIT v. BhuramalManik Chand (1980) 121 ITR 840.”

It is therefore respectfully prayed that the penalty imposed by CIT(A) u/s 271(1) (c) is bad in law as per the provision contained in section 274. The Hon’ble ITAT Jaipur Bench in the case of Sh. Gyan Chand Jain in ITA 53/JP/2011 for A.Y. 1998-99 following the Supreme Court decision and Delhi High Court decision in the case of Pawan Kumar Garg. A copy of ITAT order is being enclosed for your kind perusal (See. P.B. Pg. No. 1-12).

Even in the facts the assessee has given full explanation about the fact regarding the deposit in the bank which is not found to be false and because human probability there will be no penalty imposed u/s 271(1) (c).

Therefore the penalty imposed by AO and confirmed by CIT(A) may be deleted.

4. On the other hand, the Id. DR has relied on the orders of the authorities below.

5. We have heard the rival contentions of both the parties, perused the material available on the record and also gone through the various case laws relied upon by both the sides. We have also gone through the relevant provisions of law in the Income Tax Act. The pleadings of the Id AR was that the permission sought by the Assessing Officer was from Addl. Commissioner which was not as per law as the permission sought must have been from the Joint Commissioner hence the order passed by the Id. CIT(A) is bad in law. During the hearing, the Id AR of the assessee was made aware about the definition of Joint Commissioner of Income Tax as provided in sub-section (28C) of Section 2 of the Act, which is reproduced as under:

(28C) "Joint Commissioner" means a person appointed to be a Joint Commissioner of Income-tax or an Additional Commissioner of Income-tax under sub-section (1) of [section 117](#)"

Thus the definition of Joint Commissioner clearly provides that wherever the word Joint Commissioner used in Income Tax Act, it means a person appointed to be a Joint Commissioner of Income Tax or Additional Commissioner of Income Tax under sub-Section (1) of Section 117 of the

Act. Section 117 of the Act provides that the Central Government may appoint such persons as it thinks fit to be income tax authorities. Thus, in our considered view, the approval given by the Additional Commissioner is as per the scheme of law and there is no illegality. On merits also we fully agree with the findings of the Id. CIT(A). The assessee failed to substantiate his explanation. The findings of the Id. CIT(A) on this issue read as under:

“2.5 This is a case where cash of Rs 28,34,000/- has been deposited in the bank account of the appellant. It has been explained by the appellant that the source of this cash, is the cash given by the buyers of immovable property from M/s. Tiger Continental Wild Life Resorts Ltd. in which the appellant is the director. Total cash of Rs. 48 lacs is said to have been given by the buyers, in lieu of dishonoured cheques. The following points about this explanation furnished by the appellant, merit consideration-

(a) The appellant has not given confirmation of the persons who are said to have given the cash, in spite of numerous opportunities having been given. Also, the appellant has not been able to produce the persons who are said to have given this cash. Also, no evidences, in the form of cash book, bank book, bank statement etc, showing the source of this cash in hands of the persons giving the cash were produced or submitted. The appellant has submitted Xerox copies of cash receipts but these receipts contained only the signature of the appellant and not of the buyers / persons said to have given cash. Furthermore, these receipts also do not contain the dates on which this cash was received. The appellant has filed a copy of the FIR filed by the buyers / person said to have given cash which states that the buyers have given a sum of Rs. 3,51,00,000/- by cheque and cash. In this FIR, the amount of cash given or the date on which this cash was given, has not been mentioned. It is also not clear from the FIR whether the cash given is substantial or is merely a token amount. The above discussion would show that the appellant has not been able to substantiate his explanation.

(b) *The appellant has stated that the company - M/s. Tiger Continental Wild Life Resorts Ltd. has authorized the appellant to carry out the sale transaction on its behalf. However, the company has not authorized the appellant to receive the sale consideration. Furthermore, the appellant has stated that it has received cash of Rs. 48 lacs from the buyers whereas the amount deposited in the bank account is only Rs. 28,34,000/-. The appellant has not stated the application of the balance amount which is substantial.*

The above discussion, shows that the explanation furnished by the appellant is also not bonafide and that all the facts relating to this ' explanation (about cash deposits in the bank account of the appellant) and material to the computation of its income, have not been disclosed by it.

I have perused the case laws cited by the appellant. They deal with the principles' relating to levy of penalty u/s 271(1)(c). They do not address the specific issue at hand."

In view of the above facts and circumstances, we confirm the findings of the Id. CIT(A) and the ground raised by the assessee on this issue stands dismissed.

6. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 20/07/2018.

Sd/-
(विजय पाल राव)
(VIJAY PAL RAO)
न्यायिक सदस्य / Judicial Member

Sd/-
(भागचंद)
(BHAGCHAND)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 20th July, 2018

*Ranjan

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी/ The Appellant- Shri Hardeep Singh Randhawa, Jaipur.
2. प्रत्यर्थी/ The Respondent- The D.C.I.T., Circle-5, Jaipur.
3. आयकर आयुक्त/ The CIT
4. आयकर आयुक्त(अपील)/The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर/DR, ITAT, Jaipur
6. गार्ड फाईल/ Guard File (ITA No. 621/JP/2015)

आदेशानुसार/ By order,

सहायक पंजीकार/Asst. Registrar