



IN THE INCOME TAX APPELLATE TRIBUNAL "D", BENCH MUMBAI

BEFORE SHRI R.C.SHARMA, AM

&

SHRI SANDEEP GOSAIN, JM

ITA No.2683/Mum/2016 to 2689/Mum/2016

(Assessment Year :2001-02 to 2007-08)

Shri Shankarlal P. Mali Prop. Of. Sundhamaa Enterprises, 21, Ashish Industrial Estate, Gokhale Road (S), Dadar (W) Mumbai – 400 025	Vs.	Deputy Commissioner of Income –Tax, Central Circle4(4), Range-4 19 th Floor, Air India Building, Nariman Point Mumbai
PAN/GIR No.AABPM7296D		
Appellant)	..	Respondent)

Assessee by	Shri Girish Dave
Revenue by	Shri Chaitanya Anjaria
Date of Hearing	30/07/2018
Date of Pronouncement	31/07/2018

आदेश / ORDER

PER BENCH:

These are the appeals filed by assessee against the order of CIT(A)-52, Mumbai dated 23/02/2016 for A.Y.2001-02 to 2007-08 in the matter of imposition of penalty u/s. 271(1)(c) of the IT Act.

2. Rival contentions have been heard and record perused. Facts in brief are that assessee is an individual carrying on proprietary concern under the name M/S SUNDHA MAA ENTERPRISES from Asst. Year 1990-91. Presently Assessee is carrying on business of manufacturer of ready-made shirts in the name of M/S. SUNDHA MAA ENTERPRISES. The

assessee group is dealers in readymade garments. Some of the items dealt in by the group are Shirts, Kids-wear and Sherwani etc. The manufacturing activity consists of procuring material from suppliers and cutting the same according to size by master tailors. A search and seizure operation u/s.132 of the Act was carried out on these group of cases on 28/06/2006. Certain incriminating documents were found during search with regard to unaccounted purchase and sales.

3. During the course of assessment, the AO on the unaccounted sales estimated GP and added the same in assessee's income. AO also levied penalty u/s. 271(1)(c) with respect to the additions so made.

4. At the outset learned AR placed on record the order of the Tribunal in quantum appeal dated 26/06/2018 wherein most of the additions with respect to which penalty was levied, was deleted by the Tribunal. As per the details filed by learned AR the additions so sustained by Tribunal are with respect to the estimated profit on accounted sales are as under:-

Assessment Year	Profit
2001-02	8
2002-03	110
2003-04	32
2004-05	7,271
2005-06	40,274
2006-07	2,65,212
2007-08	52,805

5. It is clear that only addition upheld is in respect of estimated profit found by AO on the undisclosed sales which are very meager looking to

the total sales made by the assessee. Accordingly, we do not find any merit for the imposition of penalty with respect to the estimated addition so upheld in respect of the profit estimated on unaccounted sales.

6. In the result, all the appeals are allowed.

Order pronounced in the open court on this 31/07/2018

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER

Mumbai; Dated 31/07/2018

Karuna Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,

सत्यापित प्रति //True Copy//

(Asstt. Registrar)
ITAT, Mumbai