

IN THE INCOME-TAX APPELLATE TRIBUNAL "J" BENCH MUMBAI

BEFORE SHRI G.S. PANNU, ACCOUNTANT MEMBER

AND SHRI PAWAN SINGH, JUDICIAL MEMBER

ITA No.417/Mum/2017 (Assessment Year 2013-14)

Sapphire Space Infracon P. Ltd. 23-F, Laxmi Industrial Estate, New Link Road, Andheri West, Mumbai-400053. PAN: AALCS7514B	Vs.	ITO 11(1)(3), R.No. 201, Aayakar Bhavan, New Marine Lines, M.K. Road, Mumbai-20.
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Appellant

Respondent

Appellant by : None
Respondent by : Ms. Arju Garodia (DR)
Date of Hearing : 21.06.2018
Date of Pronouncement : 21.06.2018

ORDER UNDER SECTION 254(1) OF INCOME TAX ACT

PER PAWAN SINGH, JUDICIAL MEMBER;

1. This appeal by assessee under section 253 of the Income-tax Act (the Act) is directed against the order of Id. Commissioner of Income-tax (Appeals)-18, Mumbai [Id. CIT(A)] dated 08.11.2016 for Assessment Year 2013-14, wherein the order of penalty levied under section 271(1)(c) of the Act was confirmed. The assessee has raised the following grounds of appeal:

1. The authorities below have erred in law as well as on facts in levying/confirming levy of penalty under section 271(1)(c) of Rs. 746,281/-.

2. Brief facts and of the case are that the assessee filed return of income for Assessment Year 2013-14 on 30.09.2013 declaring total loss of Rs. 7,76,817/-. The assessment was completed under section 143(3) on 29.02.2016. The Assessing Officer while passing the assessment order disallowed depreciation of Rs. 23,44,806/-. The assessing officer

disallowed depreciation holding that there was no business income during the year. The Assessing Officer initiated the penalty under section 271(1)(c) while passing the assessment order. Notice under section 271(1)(c) read with section 274 dated 29.02.2016 was served upon the assessee. No reply was filed by assessee in response to the notice under section 274rws 271(1)(c). No appeal against the disallowance/addition in quantum assessment. The Assessing Officer levied the penalty @ 100% of tax sought to be evaded. The Assessing Officer worked out the penalty of Rs. 7,46,281/- vide its order dated 31.08.2016. On appeal before the Id. CIT(A), the action of Assessing Officer was confirmed. Therefore, further aggrieved by the order of Id. CIT(A), the assessee has filed the present appeal before the Tribunal.

3. None appeared on behalf of assessee despite sending notice through RPAD. The notice sent through RPAD for the hearing fixed for 21.06.2016 was returned back with the remark of postal authority "Left". Therefore, we left no option except to decide the appeal after hearing the Id. DR for the Revenue and on the basis of material available on record. The Id. DR for the Revenue supported the order of lower authority. The Id. DR further submits that the assessee has not filed any appeal against the disallowance of depreciation in quantum assessment. The disallowance attains finality.

4. We have considered the submission of ld. DR and perused the order of authorities below. We have noted that in the assessment order passed under section 143(3) of the Act, the Assessing Officer disallowed depreciation of Rs. 23,44,806/-. We have further noted that no further appeal was filed against such disallowance.
5. Before us neither representative of assessee has come forward nor any documentary evidence is furnished to substantiate its claim, therefore, we do not find any reason to interfere with the finding of lower authority, therefore, appeal of the assessee is dismissed.
6. In the result, appeal filed by assessee is dismissed.

Order pronounced in the open court on 21.06.2018.

Sd/-
G.S. PANNU
ACCOUNTANT MEMBER

Sd/-
PAWAN SINGH
JUDICIAL MEMBER

Mumbai, Date: 21.06.2018

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Copy of the Order forwarded to :

1. Assessee
3. The concerned CIT(A)
5. DR "J" Bench, ITAT, Mumbai
6. Guard File

2. Respondent
4. The concerned CIT

BY ORDER,
Dy./Asst. Registrar
ITAT, Mumbai