

आयकर अपीलिय अधीकरण, न्यायपीठ – “B” कोलकाता,
*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH “B” KOLKATA*

Before **Shri S.S.Godara, Judicial Member** and
Shri, M. Balaganesh, Accountant Member

ITA No.1779/Kol/2017
Assessment Year :2010-11

Mitra Agro Enterprise Ltd. C/o S.N. Ghosh & Associates, Advocates, “Seben Brothers” Lodge, P.O. Buroshibtala, P.S. Chinsurah, ist. Hooghly, Pin-712105 [PAN No.AAGCM 2412H]	V/s.	Income Tax Officer, Ward-7(1), Aayakar Bhawan, P-7, Chowringhee Square,5 th Floor, Kolkata-69
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	Shri Ravi Tulsian, FCA
प्रत्यर्थी की ओर से/By Respondent	Shri Robin Choudhury, Addl. CIT-Sr-DR
सुनवाई की तारीख/Date of Hearing	29-09-2018
घोषणा की तारीख/Date of Pronouncement	31-10-2018

आदेश /O R D E R

PER S.S.Godara, Judicial Member:-

This assessee’s appeal for assessment year 2010-11 arises against the Commissioner of Income Tax (Appeals)-3, Kolkata’s order dated 30.05.2017 passed in case No.2046/CIT(A)-3/W-7(1)/15-16/Kol confirming the Assessing Officer’s action imposing penalty of ₹10,000 in order dated 24.09.2015 in proceeding u/s 271(1)(b) of the Income Tax Act, 1961; in short ‘the Act’.

Heard both the parties. Case file perused.

2. It emerges at the outset that both the lower authorities have penalized the assessee for not having complied with section 142(1) notice in issue during the course of best judgment assessment framed on 19.03.2015. The assessee has filed quantum appeal ITA No.270/Kol/2018. A co-ordinate

bench therein has restored the quantum issue itself back to the Assessing Officer after observing that the assessee was prevented from sufficient cause for not putting in appearance during the course of assessment. We therefore direct the Assessing Officer to delete the impugned penalty keeping in mind all these intervening developments, we conclude in these facts and circumstances that assessee's above plea in question deserves to be accepted in the instant penalty proceedings as well that he could not appear before the Assessing Officer in scrutiny for the reasons beyond its control.

3. This assessee's appeal is allowed.

Order pronounced in the open court 31/10/2018

(लेखा सदस्य)
(M.Balaganesh)
(Accountant Member)
Kolkata,
*Dkp, Sr.P.S

Sd/-
(न्यायिक सदस्य)
(S.S.Godara)
(Judicial Member)

दिनांक:- 31/10/2018 कोलकाता ।

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-Mitra Agro Enterprise Ltd., C/o S.N. Ghosh & Associates, Advocates
"Seven Brothers Lodge", P.O. Buroshibtala, P.S. Chinsurah, Dist.
Hooghly, Pin 712105
2. प्रत्यर्थी/Respondent-ITO Ward-7(1),Aayakar Bhawan, P-7, Chowringhee Sq. 5th Fl, Kol-69
3. संबंधित आयकर आयुक्त / Concerned CIT Kolkata
4. आयकर आयुक्त- अपील / CIT (A) Kolkata
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
कोलकाता ।