

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "F", MUMBAI**

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND
SHRI N.K. PRADHAN, HON'BLE ACCOUNTANT MEMBER**

ITA NO.5052/MUM/2017 (A.Y: 2007-08)

Estate of Late Shri Vrajlal
Chandulal Mehta
92, EL-CID, 13A Ridge Road,
Mumbai – 400 006

v. A.C.I.T, Central Circle – 3(2)
19th Floor, Room No. 1923,
Air India Building, Nariman
Point, Mumbai – 400 021

PAN NO: AACPM 0814 A

(Appellant)

(Respondent)

Assessee by	:	Shri Govind Javeri
Department by	:	Shri Sushil Kumar Poddar
Date of Hearing	:	23.10.2018
Date of Pronouncement	:	23.10.2018

ORDER

PER C.N. PRASAD (JM)

1. This appeal is filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)-51, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 24.05.2017 for the Assessment Year 2007-08 in sustaining the penalty levied u/s. 271(1)(c) of the Act.

2. At the outset, Learned Counsel for the assessee submitted that the Tribunal in ITA.No. 4252/Mum/2017 dated 29.08.2018 deleted the quantum addition made and therefore the penalty levied will not survive.
3. Ld. DR fairly agreed that the quantum addition has been deleted by the Tribunal.
4. On hearing both the sides and perusing the order of the Tribunal, we find that the quantum addition has been deleted by the Tribunal observing as under:-

“47. The second ground urged by the assessee relates to enhancement of income by the learned CIT(A) by an amount of ₹.14.49 crores relating to HSBC Bank account standing in the name of a company called Investment Lexcor SA.

48. We have noticed earlier that Mr. Anoop Mehta had accepted the bank account standing in the name of Yeel Investment Inc. In respect of bank accounts standing in the names of M/s. Euros Invest Ltd. and M/s. Investment Lexcor SA, he has submitted that the same belongs to his brother Mr. Rajesh Mehta. Before Investigation authorities, an affidavit of Mr. Rajesh Mehta was also filed. During the assessment proceedings also, Shri Anoop Mehta reiterated the above said submissions and hence the Assessing Officer did not make any addition in respect of deposits found in M/s. Investment Lexcor SA. The learned CIT(A), however, took the view that deposits amount available in the account of M/s. Investment Lexcor SA is also assessable in the hands of Mr. Anoop Mehta as legal heir of Mr. Vrajlal Mehta. Accordingly, he enhanced the income by ₹.14.49 crores.

49. Learned AR submitted that the learned CIT(A) himself, in page 34 of his order, has observed that there are many beneficiaries mentioned against account of M/s. Investment Lexcor SA including Mr. Anoop Mehta and Mr. Rajesh Mehta. However, the learned CIT(A) chose to assess the same in the hands of Mr. Anoop Mehta as legal heir even though the present assessing officer and Investigation authorities have accepted the affidavit filed by Mr. Rajesh Mehta owning up the bank accounts. The Learned AR further submitted that Mr. Rajesh Mehta is a NRI for several years and accordingly he

has stated that he has invested the funds in the account of M/s. Investment Lexcor SA out of his earnings made abroad. The Learned AR submitted that Mr. Anoop Mehta, at the first instance itself, has expressed ignorance about the bank account standing in the name of M/s. Investment Lexcor SA. The Learned AR further submitted that the proceedings u/s. 153C of the Act was initiated against Mr. Rajesh Mehta and said proceedings were dropped accepting the explanations furnished by him. Accordingly, he submitted that the learned CIT(A) has made enhancement on surmises and conjectures without bringing any evidence on record and without considering proceedings that took place before other tax authorities.

50. On the contrary, learned DR submitted that the learned CIT(A) has observed that Mr. Anoop Mehta was also one of the beneficial owner of M/s. Investment Lexcor SA. Further, Mr. Rajesh Mehta has furnished only an affidavit to claim the ownership of the above said account and hence the above said evidence, being a self serving document, cannot be relied upon.

51. We have heard the rival contentions and perused the record. The assessee furnished detailed submissions in respect of this issue and we prefer to extract the same, for the sake of convenience.

22. Now, coming onto Ground No. 2, the same is reproduced as under:

“The learned CIT(A) has erred in enhancing the income assessed by the AO by Rs. 14,49,34,704 on account of the credits appearing in HSBC bank account of a company called Investment Lexcor S,A”

23. It is reiterated that during the course of search, Mr. Anoop Mehta was shown certain documents by which he was informed for the first time of the existence of a bank account with HSBC Bank in Geneva. The said base note gives details of the three accounts, i.e Yeel Investments Inc, Euros Invest Limited, Investment Lexcor S,A and the balances lying in these accounts as on December 2005 and December 2006 .The tax treatment of balances of the said accounts is as under:

1. Yeel Investment Inc- Offered to tax in the hands of Estate of Vrajlal C. Mehta based on the balances as appearing in the base note.

2. Euros Invest Limited - Rajesh Mehta, son of Vrajlal Mehta claimed that the said account belonged to him. Also, an affidavit was filed to that effect. Further, the account was closed in 2003.

3. Investment Lexcor S.A - Rajesh Mehta, son of Vrajlal Mehta claimed that the said account belonged to him. Also, an affidavit was filed to that effect.

24. Further, during the course of search proceedings, first statement of Mr. Anoop Mehta was recorded on 13.09.2011 (Page No. 1 to 6 of Paper book), wherein he was enquired of the bank accounts forming the part of base note. The relevant portion of the statement is reproduced as under:

Q. 8 Please state whether you know the following companies/ entities

1. Yeel Investments Inc.

2. *Euros Invest Limited*

3. *Investment Lexcor S.A.*

Please also state whether you had any business dealing with any of these companies/entities. Please also state whether you are in anyway associated with these companies/ entities?

Ans. I am aware of the fact that there exists a company by the name M/s. Yeel Investments Inc. To the best of my knowledge, it was set up by my father Late Shri. Vrajlal Chandulal Mehta. I am the beneficiary of this company. The company was incorporated as an Investment company whose bank accounts have money whose beneficiary is myself. I do not have any idea about the other two companies you are mentioning about, i.e. Euros Invest Limited and Investment Lexcor S.A.

Q.9 I am showing you these documents (made part of this statement as Annexure-1, pages numbered 1-32) in which you name, date of birth, address, names of certain family members and other persons alongwith the name of some companies and other details as given below appear:

Name: Mehta Anoop Vrajlal

D.O.B.: 08.11.1956

Address: 52, Et-CID, 13A Ridge Road Ind - Bombay 400006.

Other Names: Mehta Vrajlal Chandulal, Mehta Suman Vrajlal, Mehta Devaunshi Anoop, Shah Asha Navin Chandra, Mehta Rajesh Vrajlal Mehta Asha Rajesh? Mehta Sachiv R and Mehta Siddhi.

Companies: Yeel Investments Inc, Euros Invest Limited, Investment Lexcor S.A, First Corporate Director Inc and Manacor S.A

Trusts: The Parrots Trust, Fiduciare Equity Trust AG

ID Numbers: BUP_SIFIC_PER_ID 5090140303, PERJD 34612, PER_NO 140303, etc.

Kindly confirm the same and state whether the data mentioned in these documents correspond to the data of you and your family members/ associates, State what these documents are about?

Ans. I have gone through the papers shown by you. I confirm that my name, my date of birth and my address, names of some of the members of my family/associates in my business i.e., Mehta Vrajlal Chandulal, Mehta Suman Vrajlal, Mehta Devaunshi Anoop, Shah Asha Navin Chandra, Mehta Rajesh Vrajlal, Mehta Asha Rajesh, Mehta Sachiv R and Mehta Siddhi Appear in the said document Further, I would also like to state that am aware of the company Yeel Investments Inc, in which I am a beneficiary.

I have some faint remembrance of the trust 'The Parrot Trust'. However, I have no idea about the concerns Euros Invest Limited, Investment Lexcor S.A., First Corporate Director Inc and Manacor S.A and the Fiduciare Equity Trust A.O.

It appears from the documents shown by you that there are some balances in the bank accounts maintained by us with HSBC Geneva in the name of Yeel Investments Inc. As far as the rest of the data such as amounts reflected against the names of other concerns of which I have not knowledge about are

concerned, I cannot comment upon them right now, I need to check up with the bank authorities and get back to you.

25. On perusal of the same, it is important to note that Mr. Anoop Mehta in the first spontaneous statement, accepted to have some idea about the account, 'Yeel Investment Inc' which he claimed to have been belonged to his father, Late Vrajlal C. Mehta. He clearly denied to have known anything about 'Euros Invest Limited' and Investment Lexcor S.A'.

26. Further, vide letter dated 19.01.2012 (Page No.7 to 11 of Paper Book), a submission by Mr. Anoop Mehta was filed to Investigation wing wherein it was specifically written that Euros Invest Limited and Investment Lexcor S.A belonged to Shri Rajesh Mehta. A copy of the said letter and affidavit is already submitted before your Honour vide Paper Book. It is pertinent to note that investigation wing was satisfied with regards to the ownership of the said accounts.

27. Further, the Ld AO during the course of reassessment proceedings revisited the whole thing and re-recorded statement of Anoop Mehta on 11.03.2015 (Page No.14 to 17 of Paper Book), wherein he categorically reiterated the statement taken during the course of Search Proceedings. The relevant portion of the statement is reproduced as under:

Q9. There is a mention of an account in the base note, in the name of Yeel Investment Inc, are you aware about it?

Ans. As on today, Yes.

Q.20 To whom this account belongs?

Ans. It belongs to my father late Shri V.C. Mehta.

Q.21 There is a mention of another account in the' base note, in the name of Euro Invest Ltd, are you aware about it?

Ans. As on today I am aware of it. It belongs to my brother (Mr. Rajesh V Mehta).

Q.11 How do you know this it belongs to your brother (Mr.Rajesh V. Mehta)?

Ans. He told me.

Q.12 Why do I accept your submission that this account belong to your brother?

Ans. The following day after the search, I spoke to my brother and asked him about the three company shown to me. He immediately confirmed that Euros Invest Limited and Investment Lexcor S.A (Ex. Investment Funds S.A) belonged to him. About the third company (Yeel Investment Inc.) he said, he is not aware but would make some enquiries and get back to me.

I am aware that he clarified that the two companies belonged to him by an affidavit, which was filed with the Income Tax Department, Scindhia House, by his chartered accountant Mr.Bimal Desai.

Q.13 Please produce the copy of the affidavit?

Ans. If the affidavit is available with the CA and I will talk to him and furnish the same on 16.03.2015.

Q.14 Since base note is in your name then why Euro Invest P Ltd should not be considered as relating to you?

Ans. As, I have already stated, the following day after the search, I spoke to my brother and asked him about the three company shown to me. He immediately confirmed that Euros Invest Limited and Investment Lexcor S.A (Ex. Investment Funds S.A) belonged to him. About the third company (Yeel Investment Inc), he said, he is not aware but would make some enquiries and get back to me.

I am aware that he clarified that the two companies belonged to him by an affidavit, which was filed with the Income Tax Department, Scindhia House, by his chartered accountant Mr. Bimal Desai.

Q.15 There is one more accounting the name of Investment Lexcor S.A (Ex-investment funds S.A.), are you aware about it?

Ans. As on today, yes, I am aware about it and this account belongs to my brother

Q.16 How do you know this account belongs to your brother?

Ans. As, I have already stated, the following day after the search, I spoke to my brother and asked him about the three company shown to me. He immediately confirmed that Euros Invest Limited and Investment Lexeor S.A (Ex. Investment Funds S.A) belonged to him. About the third company (Yeel Investment Inc), he said, he is not aware but would make some enquiries and get back to me.

I am aware that he clarified that the two companies belonged to him by an affidavit, which was filed with the Income Tax department, Scindhia House, by his chartered accountant Mr.Bimal Desai.

Q.16a How it is possible that out of three accounts mentioned in the Base Note, one account belongs to your father and remaining two account belongs to your brother?

Ans. My brother informed me that the two companies belonged to him and the third company belong to my father. I have no reason to disbelieve him

Q. 16b Why did not you transfer the money form account of late Mr. V C Mehta to you own account?

Ans. I did not bring the money back, the executors of the Late Shri Vrajlal C. Mehta made all efforts to bring money back in the account of Late Shri Vrajlal C Mehta in Bank of Baroda. And the executors very clear that they would only distribute the residual money after all taxes were paid and all assessment done as per the Will.

28. It may further be noted that in the case of Shri Rajesh Mehta, search assessments were initiated u/s. 153C of the Act, wherein he was issued a show cause notice dated 13.03.2014 in which specific query was raised regarding Investment Lexcor S.A. The show cause notices have been reproduced as under:

*"OFFICE OF THE ASST. COMMISSIONER TAX
CENTRAL CIRCLE 20, ROOM NO.401, 4TH FLOOR
AAYAKAR BHAVAN M.K.ROAD, MUMBAI400020.*

TEL: (O) 22039131 EXTN: 2401

Dated: 13.03.2014

*Shri Rajesh V. Mehta
162, EL-CID,
13A Ridge Road, Mumbai 400 006.*

PAN: AAIPM3017B

Sub : Search/block assessment proceedings for assessment year 2007-08 - Show cause regarding.

In connection with search assessment proceedings for AY 2007-08, the following points are noticed and in this regard, you are requested to furnish the submission of explanation within 3 days on receipt of this letter.

From the information available to this office it is seen that you are beneficial owner in the bank account in HSBC Bank, Switzerland with following code BUP

Name	Code BUP
MEHTA RAJESH VRAJLAL	5090112178

Further you aforesaid identification is linked to following bank account

Investment Lexcore SA	5091230085	CH13 0868 9050 9109 10013
		CH36 0868 9050 910931625
		CH73 0868 9050 910905150
		CH82 0868 9050 910910129
		CH85 0868 9050 9109 40415

Further, through affidavit submitted to this office, you have admitted that you are beneficiary in the above mentioned account. However, from the perusal of your return of income for the year under consideration it is seen that you have not disclosed the same bank account in the return of income. In this regard, you are hereby asked as to why the amount of peak credit of \$ 38,76,949.00 during the year should not be considered as your income and be added back to your income?

Seal

(PRAVIN D. SALUNKHE)
 Asst. Commissioner of Income Tax,
 Central Circle-20, Mumbai"

29. The reply to the notice was filed by Shri Rajesh Mehta vide letter dated 24.03.2014. Thereafter, search assessment proceedings have been dropped. The relevant extract of the reply furnished by Shri Rajesh Mehta is reproduced as under:

2. "The assessee is a resident of United Arab Emirates (U.A.F) for the aforesaid year. The status of the assessee is Non Resident Indian" as per section 6 of the Income tax Act 1961 for the aforesaid year. It may be noted that the assessee is Non Resident since 1971, i.e more than past 30 years

3. The assessee fails to understand the legality and jurisdiction under the provision of Income Tax Act 1961 for issuing show cause to consider the peak credit balance of the HSBC Bank, Switzerland as indicated in the show cause notice, as income of the assessee for the A.Y 2007-08. All the transactions in HSBC Bank, Switzerland account pertain to businesses and other interest outside India and none of them pertain to any income or source in India.

4. In the show cause notice, you have mentioned that the assessee has not disclosed the said bank accounts in the return of income. In this regard, it may be noted that the assessee has regularly filed income tax returns as Non Resident Indian and disclosed income accrued or arisen in India which are taxable in India. As a Non Resident, there is no requirement to disclose the

aforesaid overseas bank accounts. This requirement has been introduced in case of "Resident Indian" with effect from A.Y 2012-13 (refer fourth proviso of section 139(1) of the Act)."

5. Section 5(2) of the Income Tax Act, 1961 provides that the total income of any previous year of a person who is a Non Resident includes all income from whatever source derived which is received or is deemed to be received in such year or accrues or arises or is deemed to accrue or arise to him in India during the year. In other words, in the case of a Non Residential Indian all his income which have not been received in India or which does not accrue or arise in India are not taxable in India.

6. The assessee is Non Resident Indian for the last more than three decades has earned and received income outside India from the sources outside India and therefore such income are not taxable in India, Accordingly, the bank account(s) of such Non-Resident Indian wherein the Non-resident Indian has deposited his income earned outside India are not required to be disclosed under the Income Tax Act, 1961. It is therefore submitted that you have no authority/jurisdiction under the Income Tax Act, 1961 to call upon the assessee to give details of his foreign bank accounts explaining the credit and debit entries therein. It is therefore respectfully submitted that the disclosure of foreign accounts in the return of income is applicable only to Resident Indians and not applicable to Non Resident Indian.

30. Thus, Investigation Wing, assessee's Ld AO and Rajesh Mehta's Ld. AO did not record an adverse finding with respect to claim of Shri Rajesh Mehta regarding ownership of Investment Lexcor S.A. However, without consideration of these observations of Investigation wing and Ld. AO, the Hon'ble CIT(A) without any reason issued enhancement notice to which assessee replied vide letter dated 21.12.2016. The Hon'ble CIT(A) did not consider the submission of assessee. Further, he did not conduct any other independent inquiry on the basis of assessee's contention and enhanced the income of the assessee without bringing any further evidence on record. The enhancement was made purely on the assumption that Investment Lexcor S.A belongs to Late Shri Vrajlal C. Mehta.

31. Further, in the CIT(A) order dated 24.03.2017, Hon'ble CIT(A) made an incorrect observation that the base note in the name of Late Shri Vrajlal C Mehta contains the name of all the three accounts and there is no specific reference for Rajesh V Mehta in the said base note being owner of accounts of either Investment Lexcor S.A. or Euros Invest Ltd. Further, same observation was made in Para 30 of Page 37 of the same CIT(A) order.

32. Considering all the above submission, observations of Investigation Wing, Assessment order of Vrajlal Mehta and dropping of assessment of Shri Rajesh Mehta, it is submitted that there was no new evidence based on which enhancement was made. Further, the already existing information was subject to inquiry and scrutiny at various levels of department. Hence, enhancement of income done by Hon'ble CIT(A) is bad in law.

33. It is hereby clarified that, the subject matter of current appeal is mainly enhancement of income of the assessee on account of the balances in HSBC bank account in name of Investment Lexcor S.A. It is hereby further clarified that the assessee has not challenged the declaration of income on account of balances lying in HSBC Bank account in the name of Yeel Investment Inc'.

34. Further, assessee has filed an undertaking dated 17.10.2016 before the Hon'ble CIT(A) during the course of the appellate proceedings that the assessee shall stand with their disclosure of income in respect of Yeel Investment Inc and

will not be seeking any reduction in the income offered at any stage. Also, the assessee will not be claiming any refund of the amount of taxes already paid except for inter-se adjustment of taxes paid amongst various assessment years.

52. The Ld CIT-DR has also furnished written submissions on this issue and for the sake of convenience, we extract the same below: -

“With respect to enhancement by Ld CIT(A) of the amount in Lexcor Investment in the same HSBC account mentioned in the base note, it is submitted that this HSBC account belongs to the late Shri Vrajlal C Mehta. Therefore, all the accounts in this base note of Late Shri Vrajlal C Mehta are to be assessed in the hands of the legal representative and legal heir of Late Shri Vrajlal C Mehta, i.e., Shri Anoop V Mehta as per sec. 159. The burden of proof shifts to Shri Anoop V Mehta, in his capacity as legal heir of Late Shri Vrajlal C Mehta to prove that the Lexcor Investment never belonged to late Shri Vrajlal C Mehta. Merely claiming that the beneficial owner of Lexcor SA is Rajesh Mehta does not discharge the burden of proof of establishing the ownership of lexcor SA. The filing of an affidavit by shri Rajesh Mehta (brother of Shri Anoop V Mehta), as alleged by the Executors, before the CIT(A) that this lexcor SA Investment belong to him does not establish how it belongs to him and not to late Shri Vrajlal C Mehta when the base note indicate a single HSBC account in the name of Shri Vrajlal C Mehta indicating various trust accounts. Thus, the logical conclusion is that all investments accounts indicated in the base note of Shri Vrajlal C Mehta pertain to his investments only and having not been included in the Will devolve upon his legal representatives. The legal representative of Late Shri Vrajlal C Mehta is shri Anoop V Mehta and this fact has not been disputed by either Shri Anoop Mehta or Rajesh Mehta. The reference to show cause notice issued to Rajesh Mehta by Investigation wing does not indicate anything (Please see para 28 and 29 of the written submission). That search assessment proceedings have been dropped and that there is no adverse finding with respect to claim of Shri Rajesh Mehta regarding ownership of Investment lexcor SA does not lead to conclusion that these assertions have been accepted. No further enquiry was required to be caused by the CIT(A) to establish that Investment Lexcor SA belongs to Late Shri Vrajlal C Mehta as all the investments in that base note of Vrajlal C Mehta belonged to him.

Please see para 33 wherein it is stated that it is hereby clarified that, the subject matter of current appeal is mainly enhancement of income of the assessee on account of the balances in HSBC bank account in name of “Investment Lexcor SA”. It is hereby further clarified that the assessee has not challenged the declaration of income on account of balances lying in HSBC Bank account in the name of Yeel Investment Inc. The assessee here is Late Shri Vrajlal C Mehta represented by his legal representative Shri Anoop V Mehta; this assessee has not challenged the enhancement of income on account of balances in HSBC Bank account in the name of Investment Lexcor SA and has not challenged the assessment of balances lying in HSBC Bank account in the name of Yeel Investment Inc. Thus, the order of the AO and the CIT(A) in the case of Late Shri Vrajlal C Mehta represented by his legal representative Shri Anoop V Mehta is not challenged. Therefore, the order of the CIT(A) must be upheld.”

53. We heard rival contentions on this issue and perused the record. We notice that the Shri Anoop Mehta, from the very beginning, has been claiming that the bank accounts standing in the name of M/s Euro Investment Ltd and M/s Investment Lexcor SA belong to his brother Shri Rajesh Mehta, who happens to be an NRI for several years. He has also filed affidavit before the Investigation wing accepting the ownership of both the bank accounts. During the course of assessment proceedings also, the AO made enquiries

about these two accounts and Shri Anoop Mehta has reiterated his earlier submissions. Accordingly, the assessing officer did not make any addition in respect of these two accounts. Out of the two accounts, the account standing in the name of M/s Euro Investment Ltd was closed in 2003 itself and hence the dispute arose in respect of M/s Investment Lexcor SA. Besides the above, the assessing officer has initiated proceedings u/s 153C of the Act in respect of the above said account in the hands of Shri Rajesh Mehta and a specific query was also raised in this regard. The query raised by the AO and the reply given by Shri Rajesh Mehta is extracted in the preceding paragraphs. After considering the reply, it is stated that the proceedings u/s 153C of the Act were dropped.

54. In our view, the Ld CIT(A) has not duly considered above facts and he has been mainly influenced by the fact that Shri Anoop Mehta is also shown as one of the beneficiaries in the above said account. Further the Ld CIT(A) has also stated that Shri Anoop Mehta is entitled to residual assets of Late Vrajlal Mehta as per the Will. In our view, the reasoning given by Ld CIT(A) is not sustainable. Under the Income-tax Act, the income tax is levied on the person who earned the income. The fact that Shri Anoop Mehta may be entitled to the residual assets may not be relevant to determine the person on whom the income is required to be assessed. For the same reasoning, the details of beneficiaries are also not relevant for that purpose.

55. The Ld CIT-DR also contended that the account standing in the name of M/s Investment Lexcor SA is tagged to late Shri Vrajlal C Mehta. There should not be any dispute that only right person can be assessed in respect of any income. Mere tagging of group accounts together will not automatically lead to the conclusion that all the accounts belong to a single person. In the instant case, it is noticed that Shri Rajesh Mehta has claimed ownership of the account before the investigation wing, before the assessing officer of Late Vrajlal C Mehta and also before his assessing officer also. All the authorities have accepted his claim. Hence in our view, the Ld CIT(A) is not justified in enhancing the income by holding that the bank account standing in the name of Investment Lexcor SA belong to the assessee, without finding fault with the decision taken by other authorities and also without bringing on record any material to contradict the claim so made. Accordingly, we set aside his order on this issue. The Ld CIT-DR has also urged in her written submissions that Shri Anoop Mehta as legal heir has not filed appeal. The issue of locus standi has already been addressed by us in the earlier paragraphs and hence this contention of Ld CIT-DR is liable to be rejected.

56. In any case, the enhancement made by Ld CIT(A) also would not survive in view of our decision rendered against the first ground raised by the assessee, wherein we

have quashed the orders passed by the tax authorities on the legal ground urged by the assessee.”

5. As could be seen from the above, since the quantum addition has been deleted by the Tribunal the penalty levied on said addition will not survive. Hence, we delete the penalty levied by the Assessing Officer on the quantum addition.

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

Order pronounced in the open court on the 23rd October, 2018.

Sd/-
(N.K. PRADHAN)
ACCOUNTANT MEMBER

Mumbai / Dated 23/10/2018
Giridhar, Sr.PS

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

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.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mum