



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
RANCHI ' SMC' BENCH, RANCHI**

**BEFORE SHRI N.S SAINI, ACCOUNTANT MEMBER**  
**ITA No.350/Ran/2016**  
Assessment Year : 2008-09

Smt. Saroj Kumar, 25, Lohanchal, Sector-12, Bokaro Steel City.	Vs.	ITO, Ward 3(4), Bokaro
PAN/GIR No.ADQPK 3924 G		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri Devesh Poddar, Adv  
Revenue by : Shri A.K.Mohanty, JCIT

**Date of Hearing : 26/11/ 2018**  
**Date of Pronouncement : 26/11/ 2018**

**ORDER**

This is an appeal filed by the assessee against the order of the CIT(A), Hazaribag, dated 18.3.2016 for the assessment year 2008-09.

2. In Ground No.A & B of the appeal, the grievance of the assessee is that the CIT(A) was not was not justified in confirming the imposition of penalty under section 271(1)(b) of the Act of Rs.20,000/-.

3. The brief facts of the case are that the Assessing Officer observed that the assessee did not appear on the dates of hearing fixed by issuing notices on 24.9.2009 and 8.4.2010 and, therefore,



he levied penalty u/s.271(1)(b) of the Act for failure to comply with the notices u/s.143(2) and 142(1) of the Act @ Rs.10,000/- for each default.

4. On appeal, the CIT(A) confirmed the action of the Assessing Officer.

5. At the time of hearing, Id A.R. of the assessee submitted that no notice was actually served on the assessee and, therefore, the Assessing Officer is not justified in imposing the penalty and the CIT(A) is also not justified in confirming the same.

6. On the other hand, Id D.R. vehemently opposed the arguments of Id A.R. of the assessee and submitted that since the assessee failed to put in appearance before the Assessing Officer on the dates fixed for hearing, he was fully justified in levying the penalty u/s.271(1)(b) of the Act.

7. After hearing the rival submissions and perusing the materials on record, I find that as the assessee failed to put in appearance before the Assessing Officer in response to notices issued on 24.9.2009 and 84.2010, therefore, he levied penalty u/s.271(1)(b) of the Act @ Rs.10,000/- for each default committed by the assessee. The submission of Id A.R. is that no notice was served upon the assessee by the Assessing Officer. None of the lower authorities has



brought any evidence on record before levying the penalty to show that notice of hearing sent to the assessee was served on the assessee or not. Since the service of notice on the assessee for the date of hearing fixed has not been established by revenue, in my considered view, levy of penalty cannot be sustained in law. I, therefore, set aside the orders of lower authorities and delete penalty of Rs.20,000/- levied under section 271(1)(b) of the Act and allow the grounds of appeal of the assessee.

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

Order pronounced on 26/11/2018.

Sd/-

**(N.S Saini)**  
**ACCOUNTANT MEMBER**

Ranchi; Dated 26/11/2018  
B.K.Parida, SPS

**Copy of the Order forwarded to :**

1. The Appellant : Smt. Saroj Kumar, 25, Lohanchal, Sector-12, , Bokaro Steel City.
2. The Respondent. ITO, Ward 3(4), Bokaro
3. The CIT(A)- Hazaribag
4. Pr.CIT- Hazaribag
5. DR, ITAT, Ranchi
6. Guard file.  
//True Copy//

By order

Sr. Pvt.Secretary,  
ITAT, Ranchi on tour

