

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "SMC", MUMBAI

BEFORE SHRI A.K. GARODIA, ACCOUNTANT MEMBER

ITA No. 3061/Mum/2018
Assessment Year : 2010-11

Brijesh Jaikishin Rupani, 503, Landmark Platinum, Junction of 34 th Road & S.V. Road, Bandra (West), MUMBAI [PAN : ADNPR4909B]	Vs.	Income Tax Officer-23(1)(3), MUMBAI
(Appellant)		(Respondent)

Appellant By : NONE
Respondent By : Shri Vijay Kumar Soni, DR

Date of Hearing : 30-01-2019	Date of Pronouncement : 01-02-2019
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ORDER

This appeal is filed by the assessee and the same is directed against the order of the Commissioner of Income Tax(Appeals)-32, Mumbai, dated 23-01-2018 for the AY. 2010-11.

2. This appeal was fixed for hearing on 30-01-2019. Notice of hearing was sent to the assessee by RPAD on the address provided by the assessee in Form No. 36 i.e. the appeal memo.

The said notice has not come back un-served and therefore, service of notice is presumed. None appeared on behalf of the assessee at the time of hearing and there is no request for adjournment. Therefore, the appeal of the assessee is decided *ex-parte qua* the assessee.

3. Ld. DR for the Revenue supported the order of the Ld. CIT(A).

4. I have considered the submissions of Ld. DR for the Revenue and gone through the orders of the authorities below and material available on record. I find that the only issue in dispute is regarding levy of penalty of Rs. 2,15,400/- u/s. 271(1)(c) of the Income Tax Act (Act). In Page No. 7 of his order, it was noted by the Ld. CIT(A) that assessee has not filed any appeal against the addition made and accordingly accepted the quantum addition made by the AO. Ld. CIT(A) after referring to various judgments including the judgment of Hon'ble Apex Court rendered in the case of Mak Data Vs. CIT 358 ITR 593 (SC), upheld the penalty order. He has given a categorical finding on page No. 13 of his order that assessee has failed to prove the genuineness and bonafides of the transactions in dispute. In the light of the facts of the present

case, I find no reason to interfere with the order of CIT(A).
Accordingly, Grounds raised by assessee are rejected.

5. In the result, the appeal of assessee is dismissed.

Order pronounced in the open court on 1st day of February, 2019

Sd/-
(A.K. GARODIA)
लेखा सदस्य/ACCOUNTANT MEMBER

मुंबई/Mumbai; दिनांक/Dated : 1st February, 2019

TNMM

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A), Mumbai
4. आयकर आयुक्त / CIT, Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asst. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai