

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**DELHI BENCH: 'SMC', NEW DELHI**  
**BEFORE SH. H.S. SIDHU, JUDICIAL MEMBER**

ITA No. 5323/Del/2018  
Assessment Year: 2009-10

AMIR AHMED,  
C/O Vinod Kumar Goel,  
282, Boundry Road,  
Civil Lines,  
Meerut  
**(PAN: AHAPA5542N)**

VS.

ITO, Ward 1(1),  
Meerut  
Uttar Pradesh

**(APPELLANT)**

**(RESPONDENT)**

Assessee by : Sh. Vinod Kumar Goel, CA  
Revenue by : Sh. SL Anuragi, Sr. DR.

**ORDER**

The Assessee has filed the Appeal against the Order dated 14.5.2018 of the Ld. CIT(A), Meerut pertaining to assessment year 2009-10 on the following grounds:-

1. That the penalty of Rs. 1,27,226/- imposed and confirmed by CIT(A) is against the facts and law and liable to be set aside in favour of the assessee.
2. That the AO as well as CIT(A) has not considered the case laws quoted by the assessee, hence, CIT(A) is in error in confirming the penalty.
3. That the assessee has right to add, modify or delete any grounds during the appeal proceeding.

2. The brief facts of the case are that assessee has filed his return showing total income of Rs. 1,49,000/- and during the assessment proceeding the assessee has replied all the queries raised by the AO. The assessment was completed u/s. 143(3) of the Income Tax Act, 1961 (in short "Act") on total income of Rs. 8,77,400/-. The assessee not accepted the order of the AO and filed the appeal before the Ld. CIT(A), Meerut, who vide his order has dismissed the appeal of the assessee. Aggrieved with the order of the Ld. CIT(A), assessee appealed before the Tribunal, which was also dismissed. The AO has imposed the penalty under section 271(1)(c) of the Act amounting to Rs. 1,27,266/- vide order dated 10.10.2017 and aggrieved with the said penalty order, the assessee appealed before the Ld. CIT(A), who vide his impugned order dated 14.5.2018 has dismissed the appeal of the assessee. Against the impugned order, assessee is in appeal before the Tribunal.

3. During the hearing, Ld. counsel for the assessee has stated that the cash deposited by the assessee was confirmed by the Ld. CIT(A), but the penalty proceedings are different from assessment proceeding merely addition confirmed does not fulfill the conditions to impose penalty. The AO has not bring any facts that the assessee willfully conceal or furnished accurate particulars of income, hence, he relied upon the case of Rekha Agarwal decided in ITA No. 1024/Del/2013, ITAT, 'F' Bench, Delhi dated 31.12.2014 and also relied upon various case laws, which he also relied upon before the Ld. CIT(A).

4. On the other hand, Ld. DR relied upon the order of the Ld. CIT(A) and stated that he has passed a well reasoned order, which does not need any interference.

5. I have heard both the parties and perused the records especially the impugned order. I note that the AIR information was received in this case wherein it was stated that assessee having cash deposit of Rs. 17,75,600/- and AO completed the assessment after considering the replies and held that Rs. 7,28,400/- was unexplained income u/s. 69A of the Act. The matter travelled to Ld. CIT(A) and ITAT who vide their respective orders dated 22.12.2016 and 6.6.2017 confirmed the addition and consequently, the AO imposed the penalty of Rs. 1,27,226/- u/s. 271(1)(c) of the Act. I find Ld. Counsel for the assessee has relied upon various case laws which he also relied upon before the Ld. CIT(A), but while citing the judgements and giving their head notes he has not been able to bring on record any similarity of facts between the judgment cited and the present appeal. However, the case of the assessee is very clear that he has no tangible explanation with regard to unexplained cash deposit which could absolve the assessee from rigour of penalty u/s. 271(1)(c) of the Act, hence, Ld. CIT(A) has rightly upheld the penalty in dispute and dismissed the appeal of the assessee, which does not need any interference on my part, therefore, I uphold the action of the Ld. CIT(A) in upholding the penalty in dispute and accordingly reject the grounds raised by the Assessee.

6. In the result, the Appeal of the Assessee is dismissed.

Order pronounced on 19-02-2019.

**Sd/-**

**[H.S. SIDHU]  
JUDICIAL MEMBER**

Date: 19/02/2019

**SRBhatnagar**

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1. Appellant 2. Respondent 3. CIT 4. CIT (A) 5. DR, ITAT

By Order,

Assistant Registrar, ITAT, Delhi Benches