



ITA No.6768/Mum/2017  
Concrete Ideas Realtors P.Ltd.  
Assessment Year :2010-11

**आयकर अपीलीय अधिकरण "सी" न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"C" BENCH, MUMBAI**

**माननीय श्री महावीर सिंह, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI MAHAVIR SINGH, JM AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ I.T.A. No.6768/Mum/2017  
(निर्धारण वर्ष / Assessment Year:2010-11)

Concrete Ideas Realtors Pvt.Ltd. 901, Empressa Amore Station Road, Khar (W) Mumbai-400 052.	<b>बनाम/</b> Vs.	<b>ITO-12(1)(4)</b> Aaykar Bhavan M.K. Road Mumbai-400 020.
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. <b>AACCC-3864-B</b>		
(□ पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Appellant by</b>	:	None
<b>Respondent by</b>	:	Abhi Ram Kartikeyan - Ld.DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	13/03/2019
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	18/032019

**आदेश / ORDER**

**Per Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as 'AY'] 2010-11 contest the order of Ld. Commissioner of Income-Tax (Appeals)-20, Mumbai, [in short referred to as 'CIT(A)'], *Appeal No. CIT(A)-20/IT-85/2013-14* dated 16/08/2013 *qua* confirmation of penalty u/s 271(1)(c) for Rs.5.30 Lacs. None has appeared for assessee. The hearing notices sent at address given in *Form 36* has returned twice. There is no intimation of change of address. Left with no



option, we proceed to dispose-off the same on the basis of material on record and after hearing Ld. Departmental Representative [DR] who justified the confirmation of penalty in the impugned order.

2. Facts leading to imposition of impugned penalty are that the assessee being *resident corporate entity* stated to be engaged as *engineers & architects* during impugned AY was assessed u/s 143(3) on 31/01/2013 wherein it transpired that the assessee computed *short term capital gains* of Rs.72.43 Lacs on sale of various office premises which constituted depreciable business assets for the assessee. While arriving at the said gains, *written down value [WDV]* of the office premises as per *The Companies Act* was considered as the cost. Further, each premises were considered as separate block of assets, while working out the gains. However, the *WDV*, in terms of Section 50, as per *Income Tax Act* was to be considered as cost and further the computations were to be made considering the various office premises as single block of asset. The aforesaid differences led to enhancement of gains from Rs.72.43 Lacs to Rs.89.43 Lacs, against which impugned penalty 271(1)(c) was initiated in the quantum assessment order for furnishing of inaccurate particulars of income.

3. During penalty proceedings, the assessee submitted that the same was *bona-fide* mistake which was realized only at the time of assessment and therefore, the penalty was not justified. However, not connived Ld. AO levied penalty of Rs.5.30 Lacs against the same. The same, upon confirmation by first appellate authority, is under appeal before us.



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4. Upon careful consideration, we find that the genesis of the impugned penalty lies in the wrong computations made by the assessee. The mistake has already been admitted during assessment proceedings. It is observed that the assessee was required to take *WDV* as per *Income Tax Act* as against *The Companies Act* as taken by the assessee and secondly, all the premises were to be considered as single block of assets. Nevertheless, the same could not be termed as furnishing of inaccurate particulars of income which justifies imposition of penalty u/s 271(1)(c). In our opinion, the computational error, at best, be termed as *bona fide* error on the part of the assessee and the assessee stood benefitted by the judgment of Hon'ble Apex Court rendered in *Price Waterhouse Coopers Pvt. Ltd. Vs. CIT [2012 25 Taxmann.com 400]* and also by the decision rendered in *CIT Vs. Reliance Petroproducts Pvt. Ltd. [2010 322 ITR 158]*. Therefore, we are inclined to delete the same.

5. The appeal stands allowed.

*Order pronounced in the open court on 18<sup>th</sup> March, 2019.*

**Sd/-**

**(Mahavir Singh)**

न्यायिक सदस्य / **Judicial Member**

**Sd/-**

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 18/03/2019  
Sr.PS, Jaisy Varghese



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**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**