



IN THE INCOME TAX APPELLATE TRIBUNAL
"H" BENCH, MUMBAI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND
SHRI RAVISH SOOD, JUDICIAL MEMBER

ITA no.2238/Mum./2018
(Assessment Year : 2011-12)

Shri Kantilal Jain
13/105, Ratansadan
5th Kumbharwada
2nd Pathan Street
Mumbai 400 004
PAN – ADCPJ9751E

..... Appellant

v/s

Income Tax Officer
Ward-19(2)(2), Mumbai

..... Respondent

Revenue by : Manoj Kumar Singh
Assessee by : Non Authorised Person

Date of Hearing – 30.04.2019

Date of Order – 30.04.2019

ORDER

PER SHAMIM YAHYA, A.M.

The present appeal has been filed by the assessee challenging the order dated 26th December 2017, passed by the learned Commissioner (Appeals)-53, Mumbai, pertaining to the assessment year 2011-12.

2. Ground raised by the assessee is as under:-

"1. On the facts and in the circumstances of the case and in law, the learned Commissioner (Appeals) erred in law in confirming the penalty under section 271(1)(b) of the Act which is most unjustified and arbitrary."

3. In this case, penalty under section 271(1)(b) of the Act amounting to ₹ 10,000, was levied by the Assessing Officer for non-response by the assessee to the notices of hearing given by the Assessing Officer. The Assessing Officer duly noted that the assessee did not respond to the notices sent for hearing. The assessee did not even respond to the penalty notice in this regard.

4. Upon the levy of penalty, the assessee appeared before the learned CIT(A). The learned CIT(A) also noted that despite several notices, the assessee did not respond. Hence, the learned CIT(A) held that in the absence of any reasonable cause, non-compliance of the statutory notices leads to the levy of penalty. He accordingly upheld the same. Against the above order, assessee is in appeal before us.

2. We have heard the learned Departmental Representative. Despite notice, none appeared. It is noted that earlier also the appeal has been fixed for hearing but the same has been adjourned at the request of Counsel. An adjournment letter has been given today also. But in the facts of continuous non-cooperation by the assessee, the same has been rejected by the Bench. Upon careful consideration, we

note that in the entire proceedings, there is no response by the assessee as to why there was no response to the statutory notices. We note that the assessee has shown letter contempt for the statutory notices. This has gone up with the level of learned CIT(A) and the Tribunal, where the assessee has continuously not responded. In the circumstances, in our considered opinion, there is no infirmity in the levy of penalty. Accordingly, we uphold the same.

3. In the result, assessee appeal stands dismissed.

Order pronounced in the open Court on 30.04.2019

**Sd/-
RAVISH SOOD
JUDICIAL MEMBER**

**Sd/-
SHAMIM YAHYA
ACCOUNTANT MEMBER**

MUMBAI, DATED: 30.04.2019

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

*Pradeep J. Chowdhury
Sr. Private Secretary*

True Copy
By Order

(Dy./Asstt. Registrar)
ITAT, Mumbai