

THE INCOME TAX APPELLATE TRIBUNAL  
“H” Bench, Mumbai  
Before Shri Shamim Yahya (AM) & Shri Amarjit Singh (JM)

I.T.A. No. 313/Mum/2018 (Assessment Year 2013-14)

M/s. Housing Development and Infrastructure Ltd. 5 <sup>th</sup> Floor, HDIL Tower Anant Kanekar Marg Bandra (East) Mumbai-400 051.  PAN : AAACH5443F (Appellant)	Vs.	ACIT, CC-5(4) Room No. 1927 19 <sup>th</sup> Floor Air India Building Nariman Point Mumbai-400021.  (Respondent)
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----	---------------------------------------------------------------------------------------------------------------------------------------

Assessee by	None
Department by	Shri Manoj Kumar Singh
Date of Hearing	27.3.2019
Date of Pronouncement	3.6.2019

ORDER

Per Shamim Yahya (AM) :

This appeal by the assessee is directed against the order of learned CIT(A) dated 16.8.2017 pertains to A.Y. 2013-14. The issue raised is that learned CIT(A) erred in sustaining penalty levied u/s. 271(1)(b) for an amount of Rs. 10,000/- by dismissing the appeal as not maintainable as the same was filed in manual form instead of electronic form.

2. We have heard learned DR appeared on behalf of the Revenue. Upon careful consideration we note that this was the first year in which filing of appeal before learned CIT(A) electronically was made mandatory. Hence, in our considered opinion as this is the first year this issue may not be very strictly and technically pursued so as to deny justice by not deciding the appeal manually. Hence, in our considered opinion learned CIT(A) erred in dismissing the appeal as not maintainable.

3. As regards merits of levy of penalty, penalty has been levied on the ground that the assessee was asked to furnish information vide notice dated 23.12.2015 fixing the appeal for hearing on 29.12.2015 and the non-compliance thereof has lead to levy of penalty u/s. 271(1)(b) for an amount of Rs. 10,000/-

4. In our considered opinion mere giving five days time to respond is certainly very short to permit levy of penalty us/. 271(1)(b) for non-compliance. In our considered opinion conduct of the assessee in these circumstances cannot held to be contumacious to warrant penalty. Hence, on overall consideration of facts and circumstances of the case, we delete penalty of Rs. 10,000/- imposed in this case.

5. In the result, assessee's appeal stands allowed.

Order has been pronounced in the Court on 3.6.2019.

Sd/-  
(AMARJIT SINGH)  
JUDICIAL MEMBER

Sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER

Mumbai; Dated : 3/6/2019

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai

PS