

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

I.T.A. No. 6377/Mum/2017 (Assessment Year 2009-10)
I.T.A. No. 6378/Mum/2017 (Assessment Year 2010-11)
I.T.A. No. 6379/Mum/2017 (Assessment Year 2009-10)
I.T.A. No. 6380/Mum/2017 (Assessment Year 2010-11)

Shri Kishorkumar Mohanlal Vyas 1/13 Fly My Sadan Gaondevi Road Bhandup (West) Mumbai-400 078. PAN : AAAPV8029L (Appellant)	Vs.	ITO-29(2)(1) Room No. 201 2 nd Floor C-10, BKC Bandra East Mumbai-400 051. (Respondent)
---	-----	--

Assessee by	Shri C.V. Jain
Department by	Shri M.K. Singh
Date of Hearing	27.3.2019
Date of Pronouncement	11.6.2019

ORDER

Per Shamim Yahya (AM) :

These are four appeals by the assessee against levy of penalty u/s. 271(1)(b) of the I.T. Act of Rs. 10,000/- each for two defaults each for A.Y. 2009-10 & 2010-11.

2. Brief facts of the case are that in income tax appeal in this regard additions were made on account of bogus purchases. After receiving explanation from the assessee the Assessing Officer has granted relief to the assessee in as much as he has disallowed only 12.5% of the bogus purchases. Assessment was completed u/s. 143(3) of the Act. Subsequently, there was change of incumbent. The Assessing Officer again issued notices. These were reportedly not complied, hence penalty u/s. 271(1)(b) of the Act of Rs. 10,000/- each was levied.

Assessee's explanation in this regard is that the assessee has given all necessary information and explanation for the assessment in this regard. We note that after receipt of necessary information and explanation, assessment was completed u/s. 143(3) of the Act. Addition on account of bogus purchases was reduced by the Assessing Officer after considering assessee's explanation and information to 12.5%. The Assessing Officer noted that there was change of incumbent and new incumbent has again issued notices which have not been complied with. In our considered opinion when the assessee has submitted all necessary information and explanation, just because there is change in incumbent, assessee cannot be asked to furnish the same information again, and in absence thereof penalty cannot be levied. Hence, in our considered opinion on the facts and circumstances of the case the assessee has provided all necessary information and explanation and the penalty levied u/s. 271(1)(b) is totally uncalled for and unsustainable. Hence, in the background of the aforesaid discussion, we set aside the orders of the authorities below and delete the penalty.

3. In the result, appeals filed by the assessee stand allowed.

Order has been pronounced in the Court on 11.6.2019.

Sd/-
(AMARJIT SINGH)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 11/6/2019

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//

PS

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai