

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, “बी”, चण्डीगढ़**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**DIVISION BENCH, ‘B’, CHANDIGARH**

**श्री संजय गर्ग, न्यायिक सदस्य एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य**  
**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND**  
**Ms. ANNAPURNA GUPTA, ACCOUNTANT MEMBER**

**आयकर अपील सं./ ITA Nos. 179 & 180/CHD/2019**

निर्धारण वर्ष / Assessment Years: 2009-10 & 2010-11

Shri Sukhwinder Singh, R/o H.NO. 707, Sector 11, Urban Estate, Panchkula	बनाम	The Income Tax Officer, Ward-3, Kurukshetra
स्थायी लेखा सं./PAN No. ATXPS3122M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Shri Tej Mohan Singh, Advocate  
For Shri S.K.Mukhi, Advocate

राजस्व की ओर से/ Revenue by : Sh. Manjit Singh, Sr.DR

सुनवाई की तारीख/Date of Hearing : 30.10.2019

उद्घोषणा की तारीख/Date of Pronouncement : 30.10.2019

**आदेश/Order**

**Per Sanjay Garg, Judicial Member:**

The present appeals have been preferred by the assessee against the separate orders dated 26.10.2018 of the Commissioner of Income Tax, Karnal [hereinafter referred to as 'CIT(A)'].

2. Both the appeals are time barred by 35 days. Separate applications for Condonation of delay in filing the appeals have been filed by the assessee. Considering the submissions of the assessee in the

applications and shortness of the delay period of only 35 days, the delay in filing the present appeals is hereby condoned

3. At the outset, the Ld. proxy counsel for Shri S.K. Mukhi has invited our attention to the impugned order of the CIT(A) which revealed that in this case the books of account were rejected and the income of the assessee was estimated by applying an estimated gross profit (GP) rate of 12% by the Assessing Officer which was scaled down by the ITAT, Chandigarh to 6%. Further, perusal of the order reveals that the books of account were rejected because the assessee had not produced certain bills and vouchers in relation to the claim of expenditure.

3. After going through the facts, we are of the view, that these are not the cases where the assessee has furnished the inaccurate particulars of income or concealed the income. The assessee is a Civil contractor and the plea of the assessee has been that his nature of work was such that it was not possible to produce all the bills and vouchers. Considering the above plea, the Tribunal directed for estimating of the income at 6% of the GP as against 12% estimated by the Assessing Officer.

Under the circumstances, we do not think it a fit case for levy of penalty u/s 271 (1)(c) of the Act and the penalty levied in these appeals accordingly is ordered to be deleted.

In the result, both the appeals stand allowed.

Order dictated and pronounced in the Open Court immediately on completion of hearing.

Sd/-  
(अन्नपूर्णा गुप्ता / ANNAPURNA GUPTA)  
लेखा सदस्य/ Accountant Member

Sd/-  
(संजय गर्ग / SANJAY GARG)  
न्यायिक सदस्य/ Judicial Member

**Dated : 30.10.2019**  
“आर.के.”

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar