



ITA No.5994/Mum/2018
Shri Balbirsingh Bansal.
Assessment Year :2009-10

आयकर अपीलीय अधिकरण “बी” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” 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.5994/Mum/2018
(निर्धारण वर्ष / Assessment Year: 2009-10)

Shri Balbir Singh Bansal D-201, Pleasant Park, Evershine Nagar, Malad (W) Mumbai-400 051.	बनाम/ Vs.	ACIT-30(1) C-15, 5 th Floor Bandra Kurla Complex, Mumbai- 400 051.
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. AABPB-4008-N		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी/ Respondent)

Assessee by	:	None
Revenue by	:	Ms. Kavita P. Kaushik- Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	14/01/2020
घोषणा की तारीख / Date of Pronouncement	:	14/01/2020

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as ‘AY’] 2009-10 contest the order of Ld. Commissioner of Income-Tax (Appeals)-41, Mumbai, [in short referred to as ‘CIT(A)’], Appeal No. CIT(A)-41/IT/352/15-16 order dated 02/07/2018 on following grounds of appeal: -

1. On facts and circumstances of the case and in law the Hon’ble C.I.T. (A) erred in upholding the penalty levied by the Ld. AO of Rs.7,916/- u/s. 271(1)(c) of the IT Act



and the reasons assigned for doing are wrong and contrary to the provisions of Income Tax and Rules made thereunder.”

As evident from ground of appeal, the assessee is aggrieved by confirmation of penalty u/s 271(1)(c) for Rs.7,916/-.

2. At the time of hearing, none appeared for assessee and no valid adjournment application was placed on record. Keeping in mind the quantum of penalty involved, the appeal was proceeded with ex-parte qua the assessee. The Ld. DR justified the penalty, relying upon the orders of lower authorities, which we have already perused.

3.1 Facts on record would reveal that the assessee was assessed u/s 143(3) r.w.s. 147 on 25/03/2015 wherein it was saddled with addition of Rs.23,296/-, being *alleged bogus purchases* stated to be made from an entity namely *M/s Deep Enterprises*. The perusal of quantum assessment order also reveals that although the assessee produced various details but failed to produce the stated supplier to prove the genuineness of the transactions. Accordingly, the said purchases were disallowed and added to the income of the assessee.

3.2 Consequently, penalty proceedings were initiated against the assessee on this addition which has finally culminated into a penalty u/s 271(1)(c) for Rs.7,916/- vide penalty order dated 15/09/2015. The same, upon confirmation by learned first appellate authority, is under challenge before us.

4. Upon careful consideration of factual matrix as enumerated in preceding paragraphs, it is observed that the quantum additions have been made primarily because the assessee could not produce the supplier to prove the genuineness of the transactions. Nevertheless, the



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assessee was in possession of purchase documents. There could be multiple reason for non-production of a third party. It is also settled legal position that levy of penalty is not automatic and merely because the quantum additions were accepted, the same could not automatically lead to imposition of penalty unless the assessee had no bona-fide explanation. The given factual matrix does not convince us to confirm the penalty. Therefore, by deleting the same, we allow the appeal

5. The appeal stands allowed.

Order pronounced in the open court on 14th January, 2020.

Sd/-

(Mahavir Singh)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 14/01/2020
Sr.PS, Jaisy Varghese

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.