

आयकर अपीलीय अधीकरण, न्यायपीठ – “सि” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH “C” KOLKATA

Before **Shri J.Sudhakar Reddy, Accountant Member** and
Shri S.S.Godara, Judicial Member

ITA No.1354/Kol/2018
Assessment Year: 2009-10

M/s Malda Construction Co. M.K.Road,Vivekananda Pally, NH-34, Malda, West Bengal-732101 [PAN No.AAEFM 5350 K]	बनाम / V/s.	Income Tax Officer, Ward-3(1), Malda Circle, Pin-731201
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	None
प्रत्यर्थी की ओर से/By Respondent	Shri Supriyo Pal, JCIT-SR-DR
सुनवाई की तारीख/Date of Hearing	22-01-2020
घोषणा की तारीख/Date of Pronouncement	31-01-2020

आदेश /O R D E R

PER S.S.Godara, Judicial Member:-

This assessee’s appeal for assessment year 2009-10 arises against the Commissioner of Income Tax (Appeals)-Jalpaiguri’s order dated 18.04.2018 passed in case No.51/CIT(A)-4/JAL/2015-16, involving proceedings u/s 143(3) of the Income Tax Act, 1961; in short ‘the Act’.

Case called twice. None appears at the assessee’s behest despite the fact that registry has already sent it an RPAD notice dated 10.12.2019. Case file indicates that the assessee had not put in appearance on the last hearing date i.e. 10.12.2019 as well. It is accordingly proceeded *ex parte*. The case is now taken up for adjudication on merits.

2. A perusal of the instant case file reveals that the assessee’s sole substantive grievance seeks to reverse both the lower authorities action adding an amount of ₹31,90,000/- on the basis of the alleged voluntary disclosure during the course of

survey proceedings u/s 133A of the Act representing undisclosed income. The assessee's case throughout has been that the same was not based on any material found or seized during the course of the survey. We notice that the CIT(A) has considered all the relevant facts as well as a catena of case law alongwith the assessee's authorized person's survey statement as well as the evidence found during the course of survey to hold that the latter's re-traction would have no bearing on the impugned addition. Learned departmental representative has also argued in the same tune only. We thus hold that the since there is no rebuttal coming from the assessee's side to the CIT(A)'s clinching finding of the fact that the impugned addition is based on physical evidence found during survey, its sole substantive grievance deserves to be rejected. We order accordingly.

3. This assessee's appeal is dismissed.

Order pronounced in open court on 31/01/2020

Sd/-
(लेखा सदस्य)
(J.Sudhakar Reddy)
Accountant Member

Sd/-
(न्यायिक सदस्य)
(S.S.Godara)
Judicial Member

*Dkp-Sr.PS

दिनांक:- 31/01/2020 कोलकाता / Kolkata

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-M/s Malda Construction Co. M.K.Road, Vivekananda Pally
NH-34, Malda,Pin-732101
2. प्रत्यर्थी/Respondent-ITO Wqard-3(1), Malda Circle, Malda-731201
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता/DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

सहायक पंजीकार
आयकर अपीलीय अधिकरण,
कोलकाता ।