

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "B-SMC", HYDERABAD

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

	ITA No.1851/Hyd/2017		
	Assessment Year: 2008-09		
Gampa Mallesham, Hyderabad. PAN: ACAPG 1850 C	Vs.	Income Tax Officer, Ward-4(1), Hyderabad.	
(Appellant)		(Respondent)	
	Assessee by:	Smt. Sandhya	
	Revenue by:	Sri Nilanjan Dey, DR	
	Date of hearing:	21/11/2019	
	Date of pronouncement:	22/01/2020	

ORDER

This appeal is filed by the assessee against the order of the Ld. CIT(A)-1, Hyderabad in appeal No.0477/CIT(A)-1/Hyd/2014-15/2017-18, dated 03/07/2017 passed U/s. 271(1)(c) r.w.s 250(6) of the Act for the A.Y. 2008-09.

2. The assessee has raised the following grounds in his appeal:

- “1. The order of the Ld. CIT(A) is erroneous both on facts and in law.
2. The Ld. CIT(A) erred in dismissing the appeal without providing further opportunity.
3. The initiation of proceedings U/s. 271(1)(c) of the IT Act is not valid as the Assessing Officer did not strike off the inappropriate portion of the notice. The A.O. ought to have struck off the inappropriate portion and indicated appellant the applicable portion in the notice.
4. The Ld. CIT(A) erred in confirming the action of the A.O. in holding that the appellant concealed the particulars of income or furnished inaccurate particulars of his income and further erred in confirming levy of penalty U/s. 271(1)(c) of the Act of Rs. 2,49,085/-.

5. *The Ld. CIT(A) ought to have considered the fact that the addition made was U/s. 68 of the Act disbelieving the letters of confirmation provided by the creditors.*
6. *Any other ground that may be urged at the time of hearing.”*

3. At the outset, the Ld. AR submitted before us that the quantum appeal in the case of the assessee is set aside to the file of ld. CIT (A) by the Tribunal and this being penalty appeal related to the quantum appeal may also be set aside to the file of Ld. CIT (A). The Ld. DR could not controvert to the submission of the ld. AR.

4. I have heard the rival submissions and carefully perused the materials on record. It is obvious that the outcome of the quantum appeal will have bearing while deciding the issue relating to the levy of penalty. The fact that the quantum appeal in the case of the assessee for the relevant assessment year is remitted back to the file of the Ld. CIT (A) for fresh adjudication is not disputed. Therefore, I hereby remit this relevant penalty appeal also back to the file of Ld. CIT (A) with directions to decide the matter in accordance with merit and law considering the decision rendered in the relevant quantum appeal.

5. In the result, appeal filed by the assessee is allowed for statistical purposes as indicated hereinabove.

Pronounced in the open Court on 22nd January, 2020.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 22nd January, 2020.

OKK

Copy to:-

- 1) Gampa Mallesham, H.No.1-3-183/40/21/23, Sai Raja Residency, P & T Colony, Gandhinagar, Hyderabad-500080.
- 2) Income Tax Officer, Ward-4(1), Income Tax Towers, AC Guards, Hyderabad.
- 3) The CIT(A)-1, Hyderabad
- 4) The Pr. CIT-1, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File