

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, MUMBAI
BEFORE SHRI SAKTIJIT DEY, JM &
SHRI S. RIFAUR RAHMAN, AM**

आयकरअपीलसं./ I.T.A. No. 6131/Mum/2018
(निर्धारणवर्ष / Assessment Year: 2010-11)

A.C.I.T, Circle-7(3)(2) 1 st Floor, Room No. 128A, Aaykar Bhavan, M.K. Road, Mumbai-400020.	बनाम/ Vs.	M/s. Printel Cardz Pvt. Ltd. 135 A-Z Industrial Estate, G.K Marg, Lower Parel, Mumbai-400 013
स्थायीलेखासं./जीआइआरसं./PAN No. AADCP1723F		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Kumar Padmapani Bora, DR
प्रत्यर्थीकीओरसे/Respondentby	:	None
सुनवाईकीतारीख/ Date of Hearing	:	16.12.2019
घोषणाकीतारीख / Date of Pronouncement	:	20.12.2019

आदेश / ORDER

Per S. Rifaur Rahman, Accountant Member:

The present Appeal has been filed by the revenue against the order of Ld. Commissioner of Income Tax (Appeals) -13 in short referred as 'Ld. CIT(A)', Mumbai, dated 20/07/2018 for Assessment Year (in short AY) 2010-11, whereby the Ld. CIT(A) allowed the appeal filed by the assessee against the penalty

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order passed u/s 271 (1) (c) of the Income Tax Act, 1961 (for short the 'Act') by deleting the same.

2. Brief facts of the case are that that assessee filed its return of income on 15-10-2010 for the A.Y 2010-11, declaring total income of Rs. 76,35,090/- which was processed/ accepted u/s 143(1) of the Act. Subsequently information received from sales tax department and DGIT (Investigation), Mumbai informing that assessee has made purchases from Hawala entry providers. Accordingly, the assessment was reopened, the reassessment was completed vide order dated 26.12.2016 by determining the total income at Rs. 82,38,500/-. In the above assessment A.O estimated the profit @ 12.5% on such transaction made by the assessee and made addition of Rs. 6,03,408/- on account of bogus purchase transaction. Thereafter, the A.O also initiated penalty proceedings u/s 271(c) of the Act by issuing of notice u/s 274 r.w.s 271(1) (c) of the Act and levied penalty of Rs. 1,86,453/- for furnishing inaccurate particulars of income u/s. 271(1) (c) of the Act vide order dated 31.08.2016.

3. Aggrieved with the order of the A.O the assessee preferred an appeal before the CIT(A).

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4. After considering the submissions of the assessee and by relying on the decisions of the Coordinate Bench of this Tribunal in the case of ITO Vs. ETCO Telecom Ltd., in ITA No. 5243, 5998 & 5999/Mum/2012 and in the case of ACIT Vs. M/s Balaji constructions in ITA No. 217/Mum/2015 and ITA Nos. 5531, 5532/Mum/2018 in the case of ITO Vs. Smt. Seeman R. Singh, order dt. 10-12-2019 ld. CIT(A) has deleted the impugned penalty levied by the A.O. Aggrieved with the above order the revenue is in appeal before us.

5. At the time of hearing, it is brought to our notice that the penalty was levied on the alleged bogus purchases and the income was estimated, the same was also confirmed by the Ld. DR. Therefore, in our considered view and in the catena of cases the Courts have held that the penalty cannot be levied when the income of the assessee is estimated. Therefore, the penalty deleted by the CIT(A) is justified and proper. Accordingly the appeal of the revenue is dismissed.

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6. In the result the appeal filed by the revenue is dismissed.

This Order pronounced in Open Court on 20/12/2019.

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Sd/-
(S RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Mumbai, Dated 20/12/2019
**PP,SPS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद/ ITAT, Mumbai

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