

*IN THE INCOME TAX APPELLATE TRIBUNAL
RANCHI BENCH "SMC" RANCHI*

Before **Shri S.S, Godara, Judicial Member**

ITA No.329 to 331/Ran/2018 Assessment Years: 2010-11, 2012-13 & 2014-15
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Shri Raees Ahmad Khan Q.No.-660, Sector-1C, Bokaro Steel City-827001 [PAN No.ADSPK 0235 C]	<u>बनाम /</u> V/s.	DCIT, Circle-3(1), Bokaro
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

आवेदक की ओर से/By Assessee	Shri Devesh Poddar, Advocate
राजस्व की ओर से/By Respondent	Shri Ajoy Kumar Adl.CIT-DR
सुनवाई की तारीख/Date of Hearing	04-03-2020
घोषणा की तारीख/Date of Pronouncement	04-03-2020

आदेश /O R D E R

(Oral)

These three assessee's appeals for assessment years 2010-11, 2012-13, & 2014-15, arise against the Commissioner of Income-tax (Appeals) Hazaaribagh's separate orders; all dated 02.08.2018, passed in case Nos. 10444, 10446 & 10447/2017-18, imposing penalty(ies) of Rs.97,400/-, Rs.1,37,650 & Rs.1,38,500/- involving proceedings u/s. 271(1)(c) of the Income Tax Act, 1961; in short 'the Act'; respectively.

Heard both the parties. Case file(s) perused.

2. It transpires at the outset that assessee's only challenge correctness of the impugned penalty(ies) is that the Assessing Officer's corresponding quantum assessment order(s) nowhere indicate as under which limb the impugned penalty(ies) proceedings have been initiated. Learned departmental representative's case on the

other hand that such a mandatory compliance arises only at the time of issuance of penalty(ies) notice and not when the assessment itself is finalised. I find no merit in Revenue's instant stands in view of the case laws (2009) 309 ITR 107 (Del) *Madhushree Gupta vs. Union of India*, (2013) 359 ITR 515 (Kar) *Commissioner of Income Tax vs. Manjunatha Cotton & Grinning Factory* and *Commissioner of Income Tax vs. Rampur Engineering Co. Ltd.* (2009) 309 ITR 143 (Del). Their lordships decide the issue in assessee's favour that such a compliance has to come at the time of finalization of assessments proceedings as well. I thus reject the Revenue's foregoing stand relying on both the lower authorities' action imposing the impugned penalty(ies). Same are directed to be deleted therefore.

4. These three assessee's appeals are allowed. ***A copy of instant common order be placed in the respective case file(s)***

Order pronounced in open court at the close of hearing on Wednesday, 4th March, 2020

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

*Dkp/Sr.PS

दिनांक:- 04/03/2020 रांची

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

1. आवेदक/Assessee- Sri Raees Ahmad Khan, Q.No.660, Sector-1C, Bokaro Steel City Bokaro-827001
2. राजस्व/Revenue-DCIT, Cir-3(1), Bokaro
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण रांची / DR, ITAT, Ranchi
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

Sr. Private Secretary/P.S (on Tour)
आयकर अपीलीय अधिकरण, रांची ।