

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "A", MUMBAI**

BEFORE SHRI RAJESH KUMAR (AM) AND SHRI RAM LAL NEGI (JM)

**ITA No. 3939/MUM/2019
Assessment Year: 2009-10**

Amar Ajit Parikh, 62A, 2 nd Floor, Mittal Bhavan, Pedder Road, Mumbai - 400026 PAN: AKDPP7038C	Vs.	The Asst. Commissioner of Income Tax – 19(1), Matru Mandir, 2 nd Floor, Tardeo, Mumbai - 400007
(Appellant)		(Respondent)

Assessee by : None

Revenue by : Shri Brajendra Kumar (DR)

Date of Hearing: 30/12/2020
Date of Pronouncement: 30/12/2020

ORDER

PER RAM LAL NEGI, JM

This appeal has been filed by the assessee against the order dated 08.04.2019 passed by the Commissioner of Income Tax (Appeals)-30 (for short the CIT(A), Mumbai, for the assessment year 2009-10, whereby the Ld. CIT(A) has dismissed the appeal filed by the assessee against the penalty order passed u/s 271 (1) (c) of the Income Tax Act, 1961 (for short the 'Act').

2. The assessee has challenged the impugned order passed by the Ld. CIT (A) on the following effective grounds:-

1. *"The Penalty order dated 29.06.2017 passed u/s 271 (1) (c) of the Act is bad in law since the proper satisfaction was neither recorded in the notice u/s 271 (1) (c) nor in the Assessment order. The Penalty was initiated on both the limbs i.e. for concealment of income and furnishing inaccurate particulars of income and levied on concealment of particulars of income which is impermissible under the law. Thus, the notice u/s 271 (1) (c)*

and subsequent penalty order are bad in law and the same may be quashed and set aside.

2. *The Ld. CIT (A) erred in upholding the concealment penalty levied by the Ld. A.O. u/s 271 (1) (c) of the Act amounting to Rs. 2,38,961/- without appreciating that the Appellant has neither concealed any particulars of income nor furnished any inaccurate particulars of income. Thus, the levy of penalty u/s 271 (1) (c) of the Act is unjustified and the same may be deleted.”*
3. This case was fixed for hearing on 30.12.2020. However, when the case was called for hearing, none appeared on behalf of the assessee. The Ld. Departmental Representative (DR) informed that in this case the department has received the declaration and undertaking in the prescribed form filed by the assessee under Direct Tax Vivad se Vishwas Act, 2020. The assessee has submitted an application dated 23.12.2020, for withdrawal of the said appeal stating that he has filed declaration u/s 4 of the Vivad se Vishwas Act, 2020 in Form No. 1 and 2 as prescribed in the Direct Tax Vivad se Vishwas Rule 2020 for settlement of the penalty demand and the said declaration has been accepted by the Pr. Commissioner of Income Tax, Mumbai – 19. The assessee has also enclosed photocopy of Form No. 3 issued under sub-section 1 of section 5 of the said Act.
5. In view of the written submissions made by the assessee, we dismiss the present appeal as withdrawn.

In the result, appeal filed by the assessee for assessment year 2009-10 is dismissed.

Order pronounced on 30th December, 2020 under rule 34 (4) of the Income Tax Appellate Tribunal Rules, 1963.

Sd/-

(RAJESH KUMAR)

ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated: 30/12/2020

Alindra, PS

Sd/-

(RAM LAL NEGI)

JUDICIAL MEMBER

आदेश प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**