

**IN THE INCOME TAX APPELLATE TRIBUNAL “G” BENCH, MUMBAI**

**BEFORE SHRI SHAMIM YAHYA, AM AND SHRI AMARJIT SINGH, JM**

आयकर अपील सं/ I.T.A. No. 4346/Mum/2018

(निर्धारण वर्ष / Assessment Year: 2012-13)

Sujata Shah C/o K. M. Kapadia & Associates 49, 1 <sup>st</sup> Floor, Ashoka Shopping, Centre, L. T. Marg, Mumbai-01.	<b>बनाम/</b> Vs.	ITO-19(3)(4) Matru Mandir, 2 <sup>nd</sup> Floor, Mumbai.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACPV8631Q		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
Assessee by:	None	
Revenue by:	Shri T. S. Khalsa (Sr. AR)	

सुनवाई की तारीख / Date of Hearing: 03/03/2021

घोषणा की तारीख /Date of Pronouncement: 07/04/2021

**आदेश / O R D E R**

**PER AMARJIT SINGH, JM:**

The assessee has filed the present appeal against the order dated 03.05.2018 passed by the Commissioner of Income Tax (Appeals)-04, Mumbai [hereinafter referred to as the “CIT(A)”] relevant to the A.Y. 2012-13 in which the penalty levied by AO has been ordered to be confirmed.

2. The assessee has raised the following grounds: -

“1 Penalty levied u/s 271(1)(c) of the Act amounting to Rs.1,90,222/- be deleted.”



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3. The brief facts of the case are that the assessee filed her return of income on 11.07.2012 declaring total income to the tune of Rs.3,69,694/- for the A.Y.2012-13. Thereafter, the assessment was selected for scrutiny and order u/s 143(3) was passed on 09.02.2015 determining total income to the tune of Rs.10,35,540/-. The AO has raised the following addition read as under.:-

(i) Deduction claimed on interest payment	Rs.1,64,597/-
(ii) Low drawings	Rs.2,00,000/-
(iii) Unexplained Cash Deposit	Rs.2,00,000/-
(iv) Claim of loss on Car sale and depreciation	Rs.1,01,250/-
Total	Rs.6,65,847/-

The penalty proceeding u/s 271(1)(c) was initiated and after the reply of the assessee, the penalty in sum of Rs.1,90,222/- was levied. Feeling aggrieved, the assessee filed an appeal before the CIT(A) who confirmed the order, therefore, the assessee has filed the present appeal before us.

4. We have heard the argument advanced by the Ld. Representative of the revenue and have gone through the case carefully. We find that the penalty was levied by AO on account of disallowance of deduction claim on interest payment, low drawings unexplained cash deposit, claim of loss of car and depreciation. Declining the claim of the assessee nowhere attract the penalty. Penalty is not to liable to be sustainable in view of the law settled in **CIT Vs. Reliance Petro Products (P) Ltd. (2010) 322 ITR 158, Naresh Chand Agarwal V. CIT and the Hon'ble Gujarat High Court in the case titled as National Textiles Vs. CIT 2001 164 CTR 2009 (Guj)**. Accordingly, in view of the above mentioned law (supra), we are of the view that the penalty upon the said addition is not justifiable, therefore, we



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set aside the finding of the CIT(A) on this issue and delete the penalty. Accordingly, we decide this issue in favour of the assessee against the revenue.

5. In the result, the appeals filed by the assessee are hereby allowed.

Order pronounced in the open court on 07/04/2021

Sd/-

Sd

(SHAMIM YAHYA)

(AMARJIT SINGH)

लेखा सदस्य / ACCOUNTANT MEMBER

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 07/04/2021  
Vijay Pal Singh (Sr. PS)

**आदेश की 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