



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK 'SMC' BENCH, CUTTACK**

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

ITA No. 23/CTK/2020
Assessment Year : 2008-2009

Rajendra Stores, Marwari Para, PO/Dist: Jharsuguda	Vs.	ITO, Ward -1, Jharsuguda
PAN/GIR No.AADFR 8004 N		
(Appellant)	..	(Respondent)

Assessee by : None
Revenue by : Shri S.K.Bandyo Padhyay, DR

Date of Hearing : 17 /06/ 2020
Date of Pronouncement : 17/06/2020

ORDER

This is an appeal filed by the assessee against the order of the CIT(A), Sambalpur, dated 18.10.2019 for the assessment year 2008-09.

2. The grievance of the assessee in this appeal is that the Id CIT(A) is not justifying in confirming the penalty of Rs.92,213/- levied under section 271(1)(c) of the Act.

3. None appeared on behalf of the assessee when the matter was called for hearing. Hence, I proceed to decide the appeal of the assessee exparte after hearing Id D.R. and on the basis of materials available on record.

4. I have heard Id D.R. and perused the appeal record of the Tribunal. Ld D.R. supported the orders of lower authorities. He submitted that since during the course of survey excess stock as well as shortage of stock in different commodities was found and the assessee could not able to explain the difference, the penalty levied by the AO is justified.

5. I find that before the Id CIT(A), there was no appearance on behalf of the assessee to explain the excess stock and also the shortage of stock in different commodities found in the course of survey. In view of above and in order to render substantial justice, I feel it just and proper to remit the matter to the file of the Id CIT(A) to redecide the penalty levied u/s.271(1)(c). The assessee is also directed to reconcile the difference of excess stock and shortage of stock found during the survey, which was the basis for levying the penalty and furnish the same before the Id CIT(A), who after verification and examination will readjudicate the issue afresh. Hence, the issue is restored to the file of the Id CIT(A).

6. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced on 17 /06/2020.

Sd/-
(Chandra Mohan Garg)
JUDICIAL MEMBER

Cuttack; Dated 17/06/2020

B.K.Parida, SPS

Copy of the Order forwarded to :

1. The Appellant : Rajendra Stores, Marwari Para,
PO/Dist: Jharsuguda
2. The Respondent. ITO, Ward -1, Jharsuguda
3. The CIT(A)-,Sambalpur
4. Pr.CIT- , Sambalpur
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack