

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

**BEFORE SHRI OM PRAKASH KANT, AM &
Ms. KAVITHA RAJAGOPAL, JM**

आयकरअपीलसं./ I.T.A. No. 910/Mum/2019
(निर्धारणवर्ष / Assessment Year: 2014-15)

Royal Home Collections Pvt. Ltd. Plot No. 33, ABCD Govt. Industrial Estate, Charkop, Kandivali, Mumbai-400 067	बनाम/ Vs.	ACIT-4(2)(1), R. No. 642, 6 th floor, Aayakar Bhavan, Mumbai-400 020
स्थायीलेखासं ./जीआइआरसं ./PAN No. AACCM4922G		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	None
प्रत्यर्थीकीओरसे/Respondent by	:	Shri T. Shankar, Ld. DR
सुनवाईकीतारीख/ Date of Hearing	:	09.03.2022
घोषणाकीतारीख / Date of Pronouncement	:	13.04.2022

आदेश / ORDER

Per Kavitha Rajagopal, Judicial Member:

The present appeal filed by the assessee is against the order of Ld. CIT(A)-9, Mumbai dated 30.01.2019 pertains to AY 2014-15. The solitary ground of appeal is whether the Ld. CIT(A) has erred in upholding the penalty of Rs. 10,000/- levied u/s 271(1)(b) of the I.T. Act.

3. The brief facts of the case are that the assessee company is a private limited company which is into the business of manufacturer and exporters of home furnishing and registered under the Companies Act. Notice u/s 143(2) was issued to the assessee company on 01.09.2015 and was duly served on 24.09.2015 and a detailed questionnaire u/s 142(1) was issued on 20.06.2016 requiring details to be submitted on or before 29.06.2016. Due to non appearance and non compliance, a show cause notice was issued on 04.08.2016 u/s 271(1)(b) of the Act. As there was again failure on the part of the assessee company to comply with, the AO levied penalty of Rs. 10,000/- u/s 271(1)(b) of the Act. Aggrieved by this, the assessee company filed an appeal before the Ld. CIT(A) challenging the impugned order. The Ld. CIT(A) confirmed the said order and hence the assessee company is in appeal before us.

4. The Ld. AR contended that the assessee company was assessed and the final assessment order was passed u/s 143(3) of the Act and not u/s 144 which is best judgment assessment. The Ld. AR further contended that the subsequent compliance by the assessee company in the assessment proceeding was considered as good compliance and that default should be condoned. The Ld. AR relied on the decision of **Akhil Bhartiya Prathmik Shikshak Sangh Bhawan Trust vs. ACIT (2008) 115 TTJ 419 (Delhi)**, **CIT vs. Ram Commercial Enterprises Ltd. (2001) 167 CTR(Del) 321**, **Globus Infocom Ltd. vs. DCIT IT Appeal No. 738/Del/2014** and **Shiv Kumar Nayyar vs. ACIT (ITA No.**

6203 & 6204/Del/2019). These decisions reiterated the proposition that if assessment proceeding was completed u/s 143(3), it would amount to compliance and the defaults committed earlier was to be ignored by the AO.

5. The Ld. DR on the other hand contended that the assessee company has not stated the reason for its non compliance and that the default committed was not to be ignored. The DR relied on the decision of the lower authorities and relied on the decision of **CIT vs. Standard Mercantile Co. (1986) 160 ITR 613 (Pat)** decision.

6. Having heard both sides and perused the materials on record, we are of the considered opinion that it is evident from Para 2 of the assessment order that the AO has recorded satisfaction towards the compliance of the assessee company in furnishing the required details during the course of assessment proceedings. It is also evident that the final assessment order was passed u/s 143(3) of the Act not u/s 144 of the Act. Though there was non compliance on the part of the assessee company, it was subsequently rectified by providing the required details to the AO. The subsequent conduct of the assessee company warrants that penalty levied by the AO u/s 271(1)(b) of the Act has to be cancelled.

7. From the above observations and the facts and circumstances, we are of the considered view that the penalty of

Rs. 10,000/- levied u/s 271(1)(b) of the Act by the AO stands cancelled.

8. In the result, the appeal filed by the assessee is **allowed**.

Orders pronounced in the open court on 13.04.2022.

<i>Sd/-</i> (Om Prakash Kant) Accountant Member मुंबई Mumbai; दिनांक Dated : 13.04.2022 <i>Sr.PS. Dhananjay</i>	<i>Sd/-</i> (Kavitha Rajagopal) Judicial Member
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आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai