

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE**

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND**

**SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER**

आयकर अपील सं. / ITA No.970/PUN/2019

निर्धारण वर्ष / Assessment Year : 2010-11

Mahadev Pandurang Lotkar  
Building No.14, Flat No.1602,  
Neelsiddhi Amrante,  
Kalamboli, Navi Mumbai.

PAN : AAKPL3555H

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Income Tax Officer,  
Ward 1, Latur

.....प्रत्यर्थी / Respondent

Assessee by : None  
Revenue by : Shri Arvind Desai

सुनवाई की तारीख / Date of Hearing : 19-05-2022

घोषणा की तारीख / Date of Pronouncement : 15-06-2022

**आदेश / ORDER**

**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the assessee against the order dated 07-03-2019 passed by the Commissioner of Income Tax (Appeals), Aurangabad-2, [‘CIT(A)’] for assessment year 2010-11.

2. We find no representation on behalf of the assessee nor any application filed seeking adjournment. The assessee called absent and set

*ex-parte*. Therefore, we proceed to hear the Ld. DR and pass order on the basis of material evidence on record.

3. The assessee has raised three grounds of appeal, amongst which the only issue emanates for our consideration is as to whether the ld. CIT(A) is justified in confirming the penalty of Rs.66,000/- levied u/s 271(1)(c) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

4. Heard the ld. DR and perused the material available on record. We note that the assessee originally filed return of income declaring a total income of Rs.5,16,930/- and it was processed u/s 143(1) of the Act vide intimation dated 30.06.2011. The assessee accepting the hawala purchases filed revised return of income by adding Rs.3,39,897/- totaling to Rs.7,47,603/- on 15.03.2013. The AO accepted the same vide its order dated 27.12.2016 passed u/s 143(3) r.w.s. 147 of the Act. The ld. CIT(A) confirmed the same. We note that in similar type of cases, this Tribunal remanded the matter to the file of AO to determine the profits on such hawala purchases which were accepted by the Revenue. If that is so, the initiation of penalty proceedings for furnishing of inaccurate particulars of income by the AO is not maintainable for the reason that there was no furnishing of inaccurate particulars as it was only came to the information of AO by Sales Tax / VAT Department through DGIT(Inv), Mumbai. Therefore, in our opinion, penalty imposed by the AO and as confirmed by the ld. CIT(A) for furnishing of inaccurate particulars is not justified. Thus,

penalty imposed by the AO and as confirmed by the Id. CIT(A) is cancelled.

Thus, the grounds of appeal raised by the assessee are allowed.

5. In the result, appeal of assessee is allowed.

Order pronounced in the open court on 15<sup>th</sup> June, 2022.

Sd/-  
(Inturi Rama Rao)  
ACCOUNTANT MEMBER  
पुणे / Pune; दिनांक / Dated : 15<sup>th</sup> June, 2022.

Sd/-  
(S.S. Viswanethra Ravi)  
JUDICIAL MEMBER

GCVSR

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-2, Aurangabad
4. The PCIT-2, Aurangabad
5. DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune