

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'A' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Dr. Manish Borad, Accountant Member**

**I.T.A. No. 25/KOL/2023
Assessment Year: 2007-2008**

***Jaymac Lasetron Pvt. Limited,.....Appellant
198A, Chittaranjan Avenue,
Kolkata-700007
[PAN: AABCJ1222H]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-9(1), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700069***

Appearances by:

*No one, appeared on behalf of the assessee
Shri Vijay Kumar, Addl. CIT, Sr. DR, appeared on
behalf of the Revenue*

Date of concluding the hearing : March 07, 2023

Date of pronouncing the order : March 16, 2023

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The assessee is in appeal before the Tribunal against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 22.11.2022 passed for A.Y. 2007-08.

2. Though the assessee has taken five grounds of appeal, but solitary grievance of the assessee is that ld. CIT(Appeals) has erred in confirming the penalty of Rs.86,616/- imposed upon the assessee under section 271(1)(c) of the Income Tax Act.

3. In response to the notice of hearing, no one has come present on behalf of the assessee. However, a written submission has been placed on record by the assessee. We have gone through the submissions carefully. It has been pleaded by the assessee that in the show-cause notice issued under section 274 read with section 271(1)(c), the ld. Assessing Officer has not specified the charges, for which the assessee is required to explain its possession. In other words, ld. Assessing Officer has not specified whether penalty is being imposed for concealment of income or furnishing of inaccurate particulars. Therefore, the penalty order is not sustainable.

4. The ld. D.R., on the other hand, was unable to controvert the contention of the assessee.

5. We have duly gone through the record carefully. The plea raised by the assessee is a very debatable plea across country. There are large numbers of decisions at the end of the Hon'ble High Court as well as Tribunal, wherein it has been laid down that if charge is not specified by the ld. Assessing Officer in the show-cause notice, then penalty will not be leviable upon the

assessee. For buttressing our observation, we make reference to the following decisions:-

(i)	<i>Pr. CIT-19, Kolkata- vs. Dr. Murari Mohan Koley- High Court at Calcutta</i>
(ii)	<i>Pr. CIT (Central) -vs.- M/s. Golden Peace Hotels & Resorts Pvt. Limited- Supreme Court order -SLP Bombay High Court - Appeal</i>
(iii)	<i>Pr. CIT, Central-1, Kolkata-vs.- M/s. Basanti Properties Pvt. Limited- Calcutta High Court</i>
(iv)	<i>M/s. Conquer Barter Pvt. Limited -vs.- Income Tax Officer- Income Tax Appellate Tribunal</i>

6. In view of the above, the appeal of the assessee is allowed and penalty is deleted.

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

Order pronounced in the open Court on 16th March, 2023.

Sd/-

(Manish Borad)
Accountant Member

Sd/-

(Rajpal Yadav)
Vice-President (KZ)

Kolkata, the 16th day of March, 2023

Copies to :(1) **Jaymac Lasetron Pvt. Limited,**
198A, Chittaranjan Avenue,
Kolkata-700007

(2) **Income Tax Officer,**
Ward-9(1), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700069

(3) *Commissioner of Income Tax (Appeals)-18,*
Kolkata;

(4) *Commissioner of Income Tax- , Kolkata;*

(5) *The Departmental Representative*

(6) *Guard File*

TRUE COPY

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata

Laha/Sr. P.S.