

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'बी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री मनीष बोराड, लेखा सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member and Dr. Manish Borad, Accountant Member

I.T.A. No.978/Kol/2023
Assessment Year: 2016-17

Mak Logistics Pvt. Ltd.....Appellant
99, Gati Coast to Coast,
Haddo PO Delanipur,
Port Blair,
Union Territory of
Andaman & Nicobar Island, 744102.
[PAN: AAECM2139H]

vs.

DCIT, Circle-3(2), Port Blair..... Respondent

Appearances by:

Shri Akkal Dudhewala, AR, appeared on behalf of the appellant.

Shri P. P. Barman, Addl. CIT-Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : March 19, 2024

Date of pronouncing the order : March 19, 2024

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 26.07.2023 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The assessee in this appeal has agitated against the levy of penalty u/s 271(1)(c) of the Act.

3. At the outset, the ld. counsel for the assessee has submitted that the aforesaid penalty was outcome of the quantum addition made by the Assessing Officer. That the appeal against the quantum additions is still pending before the ld. CIT(A). That if the quantum additions stand

deleted by the CIT(A), the impugned penalty will have to go automatically as the very basis of the levy of the penalty is the quantum additions. That the ld. CIT(A) without deciding the appeal against the quantum additions has confirmed the penalty so levied by the Assessing Officer. The ld. counsel, therefore, has submitted that the impugned order of the CIT(A) may be set aside and the matter be restored to the CIT(A) to decide the issue along with the appeal of the assessee relating to the quantum additions.

4. The ld. DR has not objected to the same.

5. We find force in the contentions raised by the ld. counsel for the assessee. The impugned order of the CIT(A) is set aside and the matter is restored to the file of the CIT(A) with a direction to decide the issue relating to the levy of penalty along with the appeal of the assessee against quantum additions.

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

Kolkata, the 19th March, 2024.

Sd/-

[डॉक्टर मनीष बोरड /Dr. Manish Borad]

लेखा सदस्य /Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]

न्यायिक सदस्य /Judicial Member

Dated: 19.03.2024.

RS

Copy of the order forwarded to:

1. Mak Logistics Pvt. Ltd
2. DCIT, Circle-3(2), Port Blair
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

I.T.A. No.978/Kol/2023
Assessment Year: 2016-17
Mak Logistics Pvt. Ltd.

//True copy//

By order

Assistant Registrar, Kolkata Benches