

**आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ 'जे', मुंबई ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "J", BENCH MUMBAI**  
**BEFORE SHRI R.C.SHARMA, AM**  
**&**  
**SHRI SANJAY GARG, JM**

आयकर अपील सं./ITA No.6246 to 6250/Mum/2014

(निर्धारण वर्ष / Assessment Years :2002-03 to 2006-07)

Shri Jitendra M. Doshi, 401/403, 4 <sup>th</sup> Floor, Express Tower, Opp. Diamond Cinema, L.T.Road, Borivali (W), Mumbai-400092	Vs.	ACIT,CC-9, Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : <b>AABPD 9971 A</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : Shri V.H.Vasani & R.H.Vasani

राजस्व की ओर से /Revenue by : Shri Jeevan Lal Lavidiya

सुनवाई की तारीख / Date of Hearing : 04/07/2016

घोषणा की तारीख/Date of Pronouncement 05/07/2016

**आदेश / O R D E R**

**PER BENCH:**

These are the appeals filed by the assessee against the order of CIT(A), Mumbai, for the assessment years 2002-03 to 2006-07, in the matter of imposition of penalty u/s.271(1)(c) of the I.T.Act.

2. Since similar issues are involved in all the year under consideration, wherein penalty u/s.271(1)(c) has been levied for the similar reason, therefore, all the appeals are heard together and are being disposed of by this consolidated order.

3. Common issues in all the years relate to imposition of penalty u/s.271(1)(c) with respect to the peak credit determined by the AO. The

AO has levied penalty equal to 200% of the tax sought to be evaded on the assessed income.

4. At the outset, Id. AR placed on record order of the coordinate bench in assessee's own case i.e. ITA Nos.6239/M/14 and other connected appeals, order dated 16-10-2015, wherein under similar facts and circumstances penalty was reduced to 100% of tax sought to be evaded.

The precise observation of the Tribunal was as under :-

*18. We have heard both the parties and perused the orders of the Revenue Authorities as well as the decision of the Tribunal in the first round of the proceedings dated 29.8.2012 (supra), as well as the relevant material placed before us. On perusal of the said order of the Tribunal (supra), wherein it is clearly mentioned that the AO is only required to follow the directions of the ITAT for computation of the amount of additions and the respective assessments were not set aside. Therefore, in this regard we agree with the view taken by the CIT (A) while upholding the penalty orders passed by the AO u/s 271(1)(c) of the Act in respect of all the assessment years under consideration. Accordingly, the decision taken by CIT (A) vide paras 5.6 and 5.7 of his order is fair and reasonable. However, as contended by the Ld Counsel for the assessee the penalty levied by the AO @ 200% of the tax to be evaded by reason of concealment of income is on higher side and therefore, considering the factual matrix of the present case, we direct the AO to restrict the penalty to 100% of the tax to be evaded instead of 200% levied by him, which in our considered opinion would meet the ends of justice. Accordingly, grounds raised by the assessee are partly allowed.*

5. As the facts and circumstances during all the years under consideration are same, respectfully following the order of the Tribunal in assessee's own case, we restrict the penalty to the extent of 100% of tax

sought to be evaded in place of 200% levied by AO. We direct accordingly.

**6. In the result, all appeals of the assessee are allowed in part.**

Order pronounced in the open court on this 05/07/ 2016.

**Sd/-  
(SANJAY GARG)**

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated 05/07/2016

प्र.कु.मि/pkm, नि.स/ PS

**Sd/-  
(R.C.SHARMA)**

लेखा सदस्य / ACCOUNTANT MEMBER

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A), Mumbai.
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार

(Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai