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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

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+ ITA 401/2017  
PRINCIPAL COMMISSIONER OF INCOME  
TAX (CENTRAL)-1

..... Appellant

Through: Mr Ruchir Bhatia, Senior Standing  
Counsel with Mr Puneet Rai, Junior Standing  
Counsel

versus

MANOJ HORA

..... Respondent

Through: Mr Shashwat Bajpae and Mr Sharad  
Agarwal, Advocates

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~~ITA 402/2017~~  
PRINCIPAL COMMISSIONER OF INCOME  
TAX (CENTRAL)-1

..... Appellant

Through: Mr Ruchir Bhatia, Senior Standing  
Counsel with Mr Puneet Rai, Junior Standing  
Counsel

versus

MANOJ HORA

..... Respondent

Through: Mr Shashwat Bajpae and Mr Sharad  
Agarwal, Advocates

**CORAM:**

**JUSTICE S.MURALIDHAR**

**JUSTICE PRATHIBA M. SINGH**

**ORDER**

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**18.07.2017**

**CM 18287/2017 (exemption) in ITA 402/2017**

1. Allowed, subject to all just exceptions.



**ITA 401/2017**

**ITA 402/2017**

2. These two appeals are directed by the Revenue against a common order dated 28<sup>th</sup> October, 2016 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA Nos. 829/Del./2014 and 1045/Del./2014 for the Assessment Year ('AY') 2009 – 2010. The ITAT vide the impugned order set aside the penalty imposed on the Respondent – Assessee under Section 140A(3) of the Income Tax Act, 1961 ('the Act').

3. Although the said provision does not provide for any penalty, the Revenue sought to justify the penalty by invoking Section 221(1) of the Act. The ITAT disagreed with the above submissions of the Revenue by pointing out that wrong invocation of the provisions had only one consequence i.e. cancellation of the order of the Assessing Officer ('AO').

4. There was no question of invocation of Section 221 (1) of the Act when AO in fact did not proceed on that basis at all. The Court, therefore, find no infirmity in the impugned order passed by the ITAT. No substantial question of law arises for consideration.

5. The appeals are accordingly dismissed.

**S.MURALIDHAR, J**

**PRATHIBA M. SINGH, J**

**JULY 18, 2017**

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