

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC-1' : NEW DELHI

BEFORE SHRI G.C. GUPTA, VICE PRESIDENT

ITA No.2161/Del/2014
Assessment Year : 2009-10

Deputy Commissioner of
Income Tax,
Circle-13(1),
New Delhi.
(Appellant)

Vs. M/s Naksha Enterprises Limited,
B-458, New Friends Colony,
New Delhi – 110 065.
PAN : AACCN2102R.
(Respondent)

Cross Objection No.129/Del/2015
Assessment Year : 2009-10

M/s Naksha Enterprises
Limited,
B-458, New Friends Colony,
New Delhi – 110 065.
PAN : AACCN2102R.
(Appellant)

Vs. Deputy Commissioner of
Income Tax,
Circle-13(1),
New Delhi.
(Respondent)

Revenue by : Shri Amrit Lal, DR.
Assessee by : Shri Ashok Agrawal and
Shri Harish Choudhary, CAs.

Date of hearing : 21.09.2015
Date of pronouncement : 05.10.2015

ORDER

The appeal by the Revenue and the cross-objection by the assessee for the assessment year 2009-10 are directed against the order of learned CIT(A)-XVI, New Delhi dated 20th January, 2014. These are being disposed of with this consolidated order.

ITA No.2161/Del/2014 – Revenue's appeal :-

2. The only effective ground of appeal of the Revenue is ground No.1, which is reproduced below:-

“On the facts and circumstances of the case, the Id.CIT(A) has erred in deleting the penalty of Rs.3,10,474/- imposed by the AO u/s 271(1)(c) of the Act holding that the assessee has not furnished any inaccurate particulars.”

3. Learned counsel for the assessee, at the outset, submitted that assessment and tax in this case were determined under the provisions of Section 115JB of the Income-tax Act, 1961 and the amount in question was shown in the profit & loss account and depreciation chart separately and therefore, no penalty u/s 271(1)(c) of the Act could be levied on the assessee. He submitted that the issue is covered in favour of the assessee with the decision of Hon'ble Delhi High Court in CIT Vs. Nalwa Sons Investments Ltd. – 194 Taxman 387 (Delhi). He submitted that the amount in question was inadvertently not shown in the computation of income by the assessee.

4. Learned DR has opposed the submissions of the learned counsel for the assessee. He submitted that the learned CIT(A) has not gone into the facts of the case and the addition in the quantum case of the assessee was confirmed by the learned CIT(A). He relied on the order of the Assessing Officer.

5. I have considered the submissions of both the sides and have perused the order of the Assessing Officer and the learned CIT(A). I find that the tax in this case was determined under the special provisions of Section 115JB of the Act and this submission of the assessee could not be controverted on behalf of the Revenue. The issue before me is covered in favour of the assessee with the decision of Hon'ble Delhi High Court in the case of Nalwa Sons Investments Ltd. (supra). The assessee's bona-fide are established in this case as the amount is shown in the profit & loss account and also in the depreciation chart and the claim of the assessee is that it could not

show the same inadvertently in the computation of income. In these facts and respectfully following the decision of Hon'ble Delhi High Court in the case of Nalwa Sons Investments Ltd. (supra), I cancel the penalty levied u/s 271(1)(c) of the Act and the ground of appeal of the Revenue is dismissed.

Assessee's Cross-objection No.129/Del/2015 :-

6. The grounds of the cross-objection of the assessee are merely supportive to the order of the learned CIT(A) and, accordingly, need no adjudication, and are dismissed.

7. In the result, the appeal of the Revenue and the cross-objection of the assessee are dismissed.

Decision pronounced in the open Court on 5th October, 2015.

Sd/-
(G.C. GUPTA)
VICE PRESIDENT

VK.

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1. Appellant : **Deputy Commissioner of Income Tax,
Circle-13(1), New Delhi.**
2. Respondent : **M/s Naksha Enterprises Limited,
B-458, New Friends Colony,
New Delhi – 110 065.**
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar