

IN THE INCOME TAX APPELLATE TRIBUNAL  
SMC "A" BENCH : BANGALORE

BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER

ITA No.1045/Bang/2015
Assessment year : 1996-97

The Income Tax Officer, Ward 6(3)(2), Bangalore.	Vs.	M/s. SLN Traders, No.219/11, J.P. Corp, Bellary Road, Sadashivanagar, Bangalore – 560 080. <b>PAN: AAUFS 0268C</b>
APPELLANT		RESPONDENT

CO No.210/Bang/2015 [in ITA No.1045/Bang/2015]
Assessment year : 1996-97

M/s. SLN Traders, Bangalore – 560 080. <b>PAN: AAUFS 0268C</b>	Vs.	The Income Tax Officer, Ward 6(3)(2), Bangalore.
CROSS OBJECTOR		RESPONDENT

Revenue by	:	Smt. Swapna Das, Jt. CIT(DR)
Respondent by	:	Shri C. Ramesh, CA

Date of hearing	:	28.06.2016
Date of Pronouncement	:	30.06.2016

**ORDER**

The appeal is preferred by the revenue against the order of  
CIT(Appeals)-2, Bengaluru dated 27.04.2015 deleting the penalty levied

u/s. 271(1)(c) of the Income-tax Act, 1961 [hereinafter referred to as “the Act”]. The assessee has filed the Cross Objections raising a preliminary objection that the CIT(Appeals) has not given any finding on the submissions of the Respondent-assessee that in light of the decision of the Hon'ble High Court of Karnataka in the case of *CIT & Anr. V. Manjunatha Cotton & Ginning Factory, 359 ITR 565 (Karn)*, the penalty notice dated 28.3.2002 issued under the provisions of section 274 r.w. sec. 271 of the Act is not valid and legal, therefore the penalty levied is bad in law and has to be cancelled.

2. Since the assessee has raised a preliminary objection with regard to validity of initiation of penalty proceedings u/s. 271(1)(c) of the Act, we prefer to adjudicate this ground at the threshold.

3. During the course of hearing of the appeal, the Id. counsel for the assessee has invited our attention to the notice u/s. 274 r.w. sec. 271 of the Act with the submission that the AO has not mentioned in the notice as to whether he intends to initiate penalty proceedings on account of concealment of particulars of income or furnishing inaccurate particulars of such income. It was further contended that the Hon'ble jurisdictional High Court has categorically held in the case of *CIT & Anr. V. Manjunatha Cotton & Ginning Factory (supra)* that notice u/s. 274 of the Act should specifically state the grounds mentioned u/s. 271(1)(c) i.e., whether it is for concealment of income or furnishing of inaccurate particulars of such

income. Sending printed form where all the grounds in section 271(1)(c) are mentioned would not satisfy the requirement of law. Therefore, in the light of these facts, initiation of penalty proceedings is not in accordance with law and deserves to be annulled.

4. The Id. DR simply placed reliance upon the order of the CIT(Appeals).

2. Having carefully examined the orders of the lower authorities in the light of rival submissions, we find that in the notice issued under section 274 r.w. sec. 271 of the Act, the AO has not specifically mentioned as to whether the penalty proceedings are initiated on account of concealment of particulars of income or furnishing of inaccurate particulars of such income. This aspect was examined by the Hon'ble jurisdictional High Court in the case of *CIT & Anr. V. Manjunatha Cotton & Ginning Factory (supra)* and they have laid down the parameters under which penalty u/s. 271(1)(c) of the Act has to be levied. Under clauses (p) & (q) of para 63 of the judgment, Their Lordships have held that notice u/s. 274 should specifically state the grounds mentioned in. 271(1)(c), i.e., whether it is for concealment of income or for furnishing of incorrect particulars of income. Sending printed form where all the grounds mentioned in section 271 are mentioned would not satisfy the requirement of law.

3. In the instant case, undisputedly the AO has not specifically stated the ground for which the penalty proceedings are initiated. In the light of

the judgment of the Hon'ble jurisdictional High Court, we are of the view that the penalty proceedings are not properly initiated, therefore, deserves to be quashed. We accordingly set aside the penalty order and delete the penalty on account of wrong initiation of the penalty proceedings.

4. Since the penalty proceedings are quashed, we find no justification to deal with the appeal of the revenue on merits.

5. In the result, the revenue's appeal is dismissed and the Cross Objection of the assessee is allowed.

Pronounced in the open court on this 30<sup>th</sup> day of June, 2016.

Sd/-

(SUNIL KUMAR YADAV )  
Judicial Member

Bangalore,  
Dated, the 30<sup>th</sup> June, 2016.  
/D S/

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar,  
ITAT, Bangalore.