

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
AHMEDABAD SMC BENCH, AHMEDABAD**

**[Coram: Pramod Kumar AM]**

I.T.A. No.3092/Ahd/2015  
Assessment Year: 2010-11

**Prof. Asha Kaul,**  
House No.434, IIM Campus,  
Vastrapur,  
Ahmedabad – 380 015.  
[PAN : AIHPK 6722 A]

.....**Appellant**

**Vs.**

**Dy. Commissioner of Income Tax,**  
Circle – 14, Ahmedabad.

.....**Respondent**

**Appearances by:**

**P.M. Mehta & G.M. Thakar** for the appellant  
**Deepak Suthria** for the respondent

Date of concluding the hearing: 21.08.2017  
Date of pronouncing the order: 23.08.2017

**O R D E R**

1. By way of this appeal, the assessee appellant has challenged correctness of the order dated 13<sup>th</sup> August 2015, passed by the learned CIT(A), Ahmedabad for the assessment year 2010-11, on the following grounds :-

*“1 In law and in the facts and circumstances of the appellant’s case, the learned CIT(A) has grossly erred in confirming penalty of Rs.86,920/- levied by the Assessing Officer u/s.271(1)(c) of the Act. The same deserves to be deleted.”*

2. The issue in appeal lies in a very narrow compass of material facts. It is a case of reopened assessment. The assessment was reopened on the ground that the assessee did not disclose professional fees received from PHI Learning Pvt. Ltd. and

SAGE Publication India Pvt. Ltd. An amount of Rs.1,65,654/- was accordingly bought to tax in the course of assessment proceedings. An income of Rs.3,922/- out of undisclosed interest income and Rs.1,11,720/- on account of undisclosed income from house property was also brought to tax. It was in respect of these quantum additions that the impugned penalty of Rs.86,920/- was imposed. Aggrieved by the penalty so imposed, assessee carried the matter in appeal before the learned CIT(A) but without any success. Assessee is not satisfied and is in further appeal before me.

3. I have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of the applicable legal position. I find that so far as income from professional fees of Rs.1,65,650/- is concerned, the same stands deleted vide order dated 19.04.2017 passed by this Tribunal as corresponding deduction under section 80QQB has been held to be admissible. To this extent, therefore, the impugned penalty has no legally sustainable basis at all. As regards the alleged undisclosed income from house property, it is pertinent to note that assessee on her own offered income from house property in return of income filed in response to notice under section 148 of the Act even though the reasons recorded for reopening the assessment did not cover the same income. Clearly therefore the act of the assessee in offering this income to tax was voluntary and malafide cannot be attributed to the same. Once the assessee has voluntarily disclosed the income, if the same having been pointed out or detected by the Income Tax authorities, it would not be proper to levy penalty on such income. I, therefore, deem it fit and proper to delete the penalty relatable to the said quantum addition of Rs.1,11,720/- as well. That leaves me with undisclosed income of Rs.3,922/- which according to the learned counsel was an inadvertent error committed by the assessee as complete details were not available at

the time of filing return. Considering the smallness of amount and the fact that the assessee is a salaried employee, the plea and explanation of the assessee deserves to be accepted. I, therefore, delete the impugned penalty.

4. In the result, appeal is allowed. Pronounced in the open court today on the 23<sup>rd</sup> day of August 2017.

**Sd/-**  
**Pramod Kumar**  
(Accountant Member)

***Dated: Ahmedabad, the 23<sup>rd</sup> day of August, 2017.***

*Copies to:*

(1)	<i>The appellant</i>	(2)	<i>The respondent</i>
(3)	<i>CIT</i>	(4)	<i>CIT(A)</i>
(5)	<i>DR</i>	(6)	<i>Guard File</i>

*By order*

*Assistant Registrar  
Income Tax Appellate Tribunal  
Ahmedabad benches, Ahmedabad*