

आयकर अपीलीय अधिकरण, ' सी ' न्यायपीठ, चेन्नई

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, CHENNAI**

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य केसमक्ष

**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./ I.T.A. No. 1364/Mds/2017

निर्धारण वर्ष/Assessment Year : 2009-10

TH 110 M/s. Arignar Anna PWCS Ltd.,
No. 39, B-6, KON Theatre Road,
Komarapalayam,
Namakkal – 638 183

The Income Tax Officer,
Vs. TDS Ward,
Salem.

[PAN: AAAAA 9242K]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. S. Sriniranjani, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. N. Madhavan, JCIT

सुनवाई की तारीख/Date of Hearing

: 14.08.2017

घोषणा की तारीख/Date of Pronouncement

: 11.10.2017

आदेश/ O R D E R

PER S. JAYARAMAN, ACCOUNTANT MEMBER:

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals), Salem in ITA No. 251/2013-14 dated 28.03.2017, wherein, the CIT(A) confirmed the penalty levied by the JCIT, TDS Range, Trichy u/s. 271C.

2. TH 110 M/s. Arignar Anna PWCS Ltd., the assessee, is a cooperative society managed by the Government of Tamilnadu. During assessment year 2009-10, it made payments for sizing charges to M/s. Sri Lakshmi Sizing Mills at Rs. 10,19,428/- without deducting tax and hence disallowed such expenses u/s. 40(a)(ia) and added to its income. The ITO-TDS, by a consolidated order u/s. 201(1)/201(1A) dated 27.12.2013 raised a demand of Rs. 22,092/- and Rs. 15,224/-, under these sections, respectively. It appears that he has sent a proposal for initiation of penalty proceedings u/s. 271C by a letter dated 06.05.2013 to the JCIT, TDS Range, Trichy. The JCIT by his order u/s. 271C dated 30.12.2013 levied a penalty of Rs. 20,092/-. Aggrieved, the assessee filed an appeal before the CIT(A) pleading, inter alia, that the appellant is a cooperative society managed by Government of Tamilnadu, which is not aware of the stringent provisions of deduction of TDS and remittance of the same to Government account etc., The CIT(A) dismissed the appeal.

3. Aggrieved, the assessee filed this appeal with the following grounds of appeal:

"2. *The Commissioner of Income Tax (Appeals) ought to have considered the submissions of the appellant that the non deduction of TDS was purely by mistake and not with any other mala fide intention.*

3. *The Commissioner of Income Tax (Appeals) erred in not considering the fact that the TDS required to be deducted has been deducted in full and remitted to the exchequer.*

4. *The Commissioner of Income Tax (Appeals) ought to have considered the case laws cited before him which support the stand of the*

appellant that penalty u/s. 271C cannot be levied if there is a reasonable cause for non-deduction of TDS."

4. The AR submitted that in the assessment year 2009-10, the assessee itself disallowed the expenses on contract payments u/s. 40(a)(ia) and added them to its total income, as it did not deduct taxes and remit the same to Government account. Seeking our attention to the copy of statement of facts filed before the CIT(A), the AR submitted that the assessee, however, has remitted the TDS u/s. 201 at Rs. 22,092/- and interest u/s. 201(1A) at Rs. 15,244/-, the total sum of Rs. 20,997/-, on 26.02.2013 itself. Thereafter only the JCIT initiated penalty proceedings u/s. 271C on 28.06.2013. Both the ITO, TDS, Salem and the JCIT, TDS Range, Trichy passed orders u/s. 201(1)/201(1A) and u/s. 271C, on 27.12.2013 and 30.12.2013, respectively. Since, the assessee has remitted the impugned TDS and the interest on 26.02.2013 itself, well ahead of the initiation of respective proceedings, the CIT(A) should not have sustained the levy of penalty and pleaded that the penalty may be deleted. Per contra, the DR supported the orders of the lower authorities.

5. We heard the rival contentions and find merits in the submissions of the AR. Since, the impugned TDS and interest were remitted well ahead of the initiation of the respective proceedings and the assessee's plea that it was unaware of the TDS provisions, when it was made aware of them it complied

with the provisions appears reasonable and hence, the penalty levied u/s. 271C is directed to be deleted.

6. In the result, the assessee's appeal is allowed.

Order pronounced on Wednesday, the 11th day of October, 2017 at Chennai.

Sd/- (एन.आर.एस. गणेशन) (N.R.S. GANESAN) न्यायिक सदस्य/ Judicial Member	Sd/- (एस जयरामन) (S. JAYARAMAN) लेखा सदस्य/ Accountant Member
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चेन्नई/Chennai,

दिनांक/Dated: 11th October, 2017

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF |