

IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR
BEFORE: SHRI N.S.SAINI, AM & SHRI PAVAN KUMAR GADALE, JM

ITA No.33 & 34/RPR/2015
(Assessment Year :2008-09 & 2009-10)

Surguja Gyanodaya Association, Old State Bank Building, Near Bengali Club, Bishrampur, Surajpur (CG)	vs	JCIT, Range-Korba, Mahanadi Complex, Niharika Road, Korba(C.G.)
PAN No. : AAFTS 8947 K		
(Appellant)	..	Respondent

Assessee by : Shri G.S.Agrawal, AR
Revenue by : Shri O.P.Chaudhary, DR

Date of Hearing : 18/01/2018
Date of Pronouncement 18/01/2018

आदेश / O R D E R

Per Shri N.S.Saini, AM:

These are the appeals filed by the assessee against the order of the CIT(A), Bilaspur, both dated 16.07.2013 for the assessment year 2008-2009 & 2009-2010.

2. The sole grievance of the assessee in both the appeals is that the CIT(A) erred in confirming the penalty levied u/s.272A(2)(e) of the Act by the assessing officer at Rs.54,600/- for assessment year 2008-09 and Rs.18,100/- for assessment year 2009-2010.

3. Brief facts of the case are that the assessee is a society registered u/s.12AA of the Income Tax Act, 1961 and filed return of income for assessment year 2008-09 and 2009-10 showing Nil income. According to the AO, the return of income was required to be filed by the assessee on or before 30.09.2008 for assessment year 2008-09 and on or before 30.09.2009 for the assessment year 2009-10 as per provisions of Section 139(4A) or 139(4C) of the Act. Since the assessee filed the return of

income for assessment year 2008-09 on 30.03.2010 and for the assessment year 2009-10 on 30.03.2010, there was a delay of 546 days in assessment year 2008-09 and 181 days in assessment year 2009-10. Hence, he levied penalty u/s.272A(2)(e) of the Act @100/- per day and levied penalty of Rs.54,600/- in the assessment year 2008-09 and Rs.18,100/- in assessment year 2009-10.

4. Before the CIT(A) the assessee submitted that the assessee filed return of income declaring income at Rs.Nil and, thus, the income is below the taxable limit. Therefore, the assessee had bonafide belief as the income was below the taxable limit, there was no obligation to file the return of income.

5. On appeal, the CIT(A) confirmed the penalty levied by the Assessing Officer.

6. The AR of the assessee reiterated the submissions made before the lower authorities.

7. On the other hand, the DR supported the orders of lower authorities.

8. We find that the facts narrated above are not in dispute that the assessee filed return of income for both the years under appeal showing Nil income, thus, income of the assessee was below the taxable limit and, therefore, the assessee had bonafide belief that when the income was below the taxable limit, there was no obligation to file the return of income. We find that the Hon'ble Supreme Court in the case of Hindustan Steel Ltd. v The State of Orissa, 83 ITR 26, has held that for a technical or venial breach of the provision of the Act, no penalty is to be levied. In view

of the above decision of Hon'ble Supreme Court in the case of Hindustan Steel Ltd.(supra), we are of the considered view that the assessee society is not liable for penalty u/s.272A(2)(e) of the Act for delay in filing the return of income. Therefore, we cancel the penalty levied by the Assessing Officer of Rs.54,600/- for the assessment year 2008-09 and Rs.18,100/- for assessment year 2009-10.

9. In the result, both appeals filed by the assessee are allowed.

Order pronounced in the Court on Thursday, the 18th Day of January, 2018 at Raipur.

Sd/-
(PAVAN KUMAR GADALE)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(N. S. SAINI)

लेखा सदस्य / ACCOUNTANT MEMBER

Raipur; दिनांक Dated 18/01/2018

प्र.कु.मि/PKM, Senior Private Secretary

आदेश की प्रतिलिपि अद्येषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, Raipur / DR, ITAT, Raipur
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)
Income Tax Appellate Tribunal, Raipur