

**THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "B-SMC", HYDERABAD**

BEFORE SHRI J. SUDHAKAR REDDY, ACCOUNTANT MEMBER

**ITA Nos. 597, 598, 599, 600/Hyd/2017
A.Ys: 2006-07, 2007-08, 2008-09, 2009-10**

Shri A. Linga Reddy,
Prop: Swapna Wines
Shankarapally,
R.R. District

vs. The Income Tax Officer
Ward-1
Vikarabad.

PAN- AETPA3504J

(Appellant)

(Respondent)

Assessee by : Shri B. Shanthi Kumar
Revenue by : Shri K. Gopala Krishna

Date of hearing : 08-05-2018
Date of pronouncement : 08-05-2018

ORDER

PER SHRI J. SUDHAKAR REDDY, AM:

All these appeals are filed by the assessee directed against separate but identical orders of the Ld. CIT(A), passed u/s 250 of the IT Act, 1961 (the Act), wherein the order passed by the Assessing Officer (A.O) u/s 271(1)(c) of the 'Act' has been confirmed. The assessee has filed the following additional grounds of appeal.

"1. The Ld. CIT(A) failed to note that the A.O did not specify the reason for levying penalty u/s 271(1)(c) of the IT Act, 1961 in the assessment order dt. 31.03.2015, as to whether for concealment of income or for furnishing of inaccurate particulars of income.

2. The Ld. CIT(A) failed to note that the A.O did not specify the reason for levying penalty u/s 27(1)(c) of the IT Act 1961 in the Show cause notice dt. 31.03.2015 as to whether for

concealment of income or for furnishing of inaccurate particulars of income”.

1.1 As there are legal grounds and all the facts are on record, I admit these grounds.

2. After hearing rival contentions, I find that the Hon'ble Karnataka High Court in the case of CIT Vs M/s SSA's Emerald Meadows, ITA No. 380 of 2015 judgment dated 23.11.2015 had at para 3 and 4 held as follows:

“3. The Tribunal has allowed the appeal filed by the assessee holding the notice issued by the A.O u/s 274 r.w.s 271(1)(c) of the IT Act to be bad in law as it did not specify which limb of section 271(1)(c) of the Act, the penalty proceedings had been initiated i.e., whether for concealment of particulars of income or furnishing of inaccurate particulars of income. The Tribunal, while allowing the appeal of the assessee, has relied on the decision of the Division Bench of this Court rendered in the case of CIT Vs. Manjunatha Cotton and Ginning Factory (2013) 359 ITR 565.

4. In our view, since the matter is covered by judgment of the Division Bench of this Court, we are of the opinion, no substantial question of law arises in this appeal for determination by this Court. The appeal is accordingly dismissed”.

2.1 The Hon'ble Supreme Court vide order in SLP No. 11485/2016 dated 05.08.2016 in the case of CIT Vs M/s SSA's Emerald Meadows, ordered as follows:

“Delay condoned

We do not find any merit in this petition. The special leave petition is, accordingly, dismissed. Pending application, if any, stands disposed of”.

2.2 Hence, the issue in question is no more *res-integra*.

2.3 The assessee has filed the copies of the notice issued u/s 274 of the Act r.w.s 271(1)(c) for all the impugned

assessment years which are at pages 31 to 34 of the paper book. The second line of the notices has reads as follows:

“Have concealed the particulars of your income furnished, inaccurate particulars of such income”

2.4 Thus it is clear that the notice did not specify the limb of Sec. 271(1)(c) of the IT Act, under which penalty proceedings have been initiated. Hence, respectfully following the judgment of Hon’ble Supreme Court (supra) on this issue, I cancel all the orders of penalty in all these cases for all the years as bad in law.

4. In the result all the appeals of the assessee are allowed.

Pronounced in the open court on 08th May, 2018.

Sd/-
(J. SUDHAKAR REDDY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 08th May, 2018.

KRK

- 1) *Shri A. Linga Reddy C/o. B. Shanthi Kumar, Adv, 111, Taramandal Complex, 5-9-13, saifabad, Hyderabad.*
- 2) *ITO, Ward-(1), Vikarabad.*
- 3) *CIT(A) -2, Hyderabad.*
- 4) *The Pr.CIT, Range-2, Hyderabad.*
- 5) *The Departmental Representative, I.T.A.T., Hyderabad.*
- 6) *Guard File*