

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH, CHENNAI
श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष
BEFORE SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER
AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER

आयकर अपील सं./I.T.A.No.536/Chny/2017
(निर्धारण वर्ष / Assessment Year: 2011-12)

Shri Lalith Sharma, No.933, TVS Colony, I Floor, Anna Nagar West Extn., Chennai – 600 101.	Vs	The Income Tax Officer, Business Ward XI(2), Chennai.
PAN: ABHPL9099A		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri V. Prasanth Kiran, Advocate
प्रत्यर्थी की ओर से/Respondent by	:	Ms. Vijayaprabha, JCIT

सुनवाई की तारीख/Date of hearing	:	12.06.2018
घोषणा की तारीख/Date of Pronouncement	:	26.07.2018

आदेश / ORDER

Per A. Mohan Alankamony, AM:-

This appeal by the assessee is directed against the order passed by the learned Commissioner of Income Tax(Appeals)-5, Chennai, dated 14.12.2016 in ITA No.54/CIT(A)-5/2014-15 for the assessment year 2011-12 passed U/s. 250(6) r.w.s. 271(1)(c) of the Act.

2. The assessee has raised several grounds in his appeal however the crux of the issue is the Ld.CIT(A) has erred in confirming

the penalty levied by the Ld.AO by invoking the provisions of Section 271(1)(c) of the Act before adjudicating the quantum appeal on merits.

3. The brief facts of the case are that the assessee is an individual earning commission income, filed his return of income for the assessment year 2011-12 on 31.10.2011 admitting total income of Rs.11,80,010/-. Initially the return was processed U/s.143(1) of the Act and subsequently the case was selected for scrutiny and notice U/s.143(2) of the Act was issued. Finally assessment order was passed U/s.143(3) of the Act on 24.01.2014 wherein the Ld.AO had made several additions. Thereafter the Ld.AO invoking the provisions of Section 271(1)(c) of the Act and levied minimum penalty @ 100% of tax amounting to Rs.7,44,558/-.

4. At the outset the Ld.AR submitted before us that the Ld.CIT(A) had confirmed the penalty levied by the Ld.AO without adjudicating the quantum appeal pending before him on merits. He therefore pleaded that the matter may be remitted back to the file of Ld.AO who may pass appropriate order after adjudicating the quantum appeal of the assessee which is pending before him. The Ld.DR could not controvert to the submission of the Ld.AR.

5. We have heard the rival submissions and carefully perused the materials on record. From the facts of the case we find merit in the submissions of the Ld.AR. It is not appropriate on the part of the Ld.CIT(A) to decide the penalty appeal before deciding the quantum appeal on merits. The fact that the quantum appeal is yet to be adjudicated by the Ld.CIT(A) is not in dispute. Therefore in the interest of justice, we hereby remit back the matter to the file of Ld.CIT(A) with directions to decide the penalty appeal in accordance with law and merits after adjudicating the quantum appeal pending before him.

6. In the result, the appeal of the assessee is allowed for statistical purpose as indicated herein above.

Order pronounced on the 26th July, 2018 at Chennai.

Sd/-

(धुव्वुरु आर.एल रेड्डी)

(Duvvuru RL Reddy)

न्यायिक सदस्य /Judicial Member

Sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य / Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 26th July, 2018

RSR

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 |