

आयकर अपीलीय अधिकरण पुणे न्यायपीठ “SMC” पुणे में
IN THE INCOME TAX APPELLATE TRIBUNAL
SMC BENCH, PUNE

श्री डी. करुणाकरा राव, लेखा सदस्य के समक्ष
BEFORE SHRI D. KARUNAKARA RAO, AM

आयकर अपील सं. / ITA No.2165/PUN/2017
निर्धारण वर्ष / Assessment Year : 2013-14

DCIT, Circle-8,
Pune

.... अपीलार्थी/ Appellant

Vs.

Mrs. Sheetal K. Tejwani,
Office No.23, B-Wing,
Jewel of Pimpri,
Mumbai Pune Highway,
Pune – 411 018
PAN : AEFPT6719Q

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Shri Sanjeev Ghei
प्रत्यर्थी की ओर से / Respondent by : None

सुनवाई की तारीख / Date of Hearing : 04.10.2018	घोषणा की तारीख / Date of Pronouncement: 05.10.2018
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आदेश / ORDER

PER D. KARUNAKARA RAO, AM :

This is the appeal filed by Revenue against the order of CIT(A)-6,
Pune dated 02-05-2017 for the Assessment Year 2013-14.

2. Grounds raised by the Revenue are extracted below :

“1. Whether on the facts and circumstances of the case the Ld.CIT(A) is justified in reducing the penalty levied u/s.271(1)(c) of the I.T. Act, 1961, for furnishing of inaccurate particulars of income, holding that there is no finding of any evasion?”

2. Whether on the facts and circumstances of the case the Ld.CIT(A) is justified in not following the observations of Hon’ble Supreme Court in the case of Mak Data Pvt. Ltd. 38 Taxman 448 (SC), in which Apex Court clearly held that, voluntary disclosure does not absolve assessee from penalty?”

3. The appellant craves leave to add, amend or alter any of the above grounds of appeal.”

3. Briefly stated relevant facts includes that the assessee is an individual engaged in the business of land trading. Assessee filed the return of income declaring total income of Rs.22,42,070/-. There was survey in the business premises of assessee which resulted in seizure of certain papers. Assessee offered Rs.1 crore as additional income. In the assessment, AO made couple of additions on account of interest and depreciation and eventually assessed the income of the assessee at Rs.34,47,070/-. AO initiated penalty proceedings u/s.271(1)(c) of the Act for furnishing inaccurate particulars of income and concealing income and levied penalty of Rs.31 lakhs. In the First Appellate proceedings, the CIT(A) sustained the penalty on the sum of Rs.62 lakhs only and reasoned that there is no specific finding of any evasion. Thus, out of undisclosed income of Rs.1 crore and gave relief on the balance amount of Rs.38 lakhs. Aggrieved with the order of CIT(A), the Revenue filed the present appeal before the Tribunal with the aforementioned grounds.

4. Before me, Ld. DR for the Revenue narrated the facts and prayed for confirming the order of AO. However, he fairly submitted that the tax effect involved in this appeal is only Rs.12,91,520/-. However, there is none to represent the assessee.

5. Heard the Ld. DR for the Revenue and perused the orders of the Revenue on the issue of reduction of penalty u/s.271(1)(c) of the Act by the CIT(A). However, on going through the facts of the case, I find the total tax effect involved in the present appeal works is only Rs.12,91,620/-. The CBDT circular No.3/2018 dated 11th July, 2018 raised the monetary limit of tax effect for filing of appeal by the Department before the Tribunal to Rs.20 Lakhs. The circular applies to

the pending appeals of the Department before the Tribunal too. Thus, in view of the CBDT circular, I am of the opinion that the present appeal of the Revenue is liable to be dismissed on account of low tax effect without going into the merits of the case.

6. In the result, the appeal of the Revenue is dismissed.

Order pronounced on this 05th day of October, 2018.

Sd/-
(D.KARUNAKARA RAO)
लेखा सदस्य / ACCOUNTANT MEMBER

पुणे / Pune; दिनांक Dated : 05th October, 2018.
Satish

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune