

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 सदस्यके समक्ष

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

आयकरअपीलसं/.I.T.A. No. 1383/Chny/2018

निर्धारणवर्ष/Assessment Year : 2014-15

Shri. Kamal Chand Shiyal,
1/504, South Avenue Road,
Muthamizh Nagar,
Kodungaiyur,
Chennai - 600 118.

The Income Tax Officer,
Vs. Non Corporate Ward - 5(1),
Chennai -34.

[PAN: CTNPS 7795G]

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

Assessee by
Revenue by

: Shri. M. Karunakaran, Advocate
: Shri. Clement Ramesh Kumar, Addl. CIT

सुनवाईकीतारीख/Date of Hearing

: 25.09.2018

घोषणाकीतारीख/Date of Pronouncement

: 05.11.2018

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)-5, Chennai in ITA No 72/CIT(A)-5/17-18 dated 28.03.2018 confirming the penalty levied u/s. 271(1)(b) for assessment year 2015-16.

2. The Ld. AR submitted that Shri. Kamal Chand Shiyal, the assessee, derived income from house property, long term capital gains on sale on shares and income from other sources. During the assessment proceedings for assessment year 2014-15, the Assessing Officer issued notice u/s. 142(1) calling for certain details. Since, the details were not filed, the Assessing Officer issued a show cause notice u/s. 271(1)(b) and levied penalty of Rs. 10,000/-. Aggrieved against that order, the assessee filed an appeal before the Ld. CIT(A). Though the Assessing Officer completed the assessment u/s. 143(3) dated 14.02.2017, based upon details and the particulars furnished by the assessee, the CIT(A) confirmed the levy of penalty.

3. The AR submitted that the Delhi tribunal in ITA No. 738/Del/2014 dated 20.09.2016 for assessment year 2010-11 held, inter alia, that when the assessment order is passed u/s. 143(3) and not u/s. 144. The subsequent compliance in the assessment proceedings is considered as good compliance and defaults earlier committed by AO is ignored. In such circumstances, there can be no reason to come to conclusion that the default is wilful. Since, the facts and circumstances of this case is totally similar, the AR pleaded that in accordance with the same ratio, the penalty may be deleted. Per contra, the Ld. DR supported the orders of the lower authorities.

4. We heard the rival submissions. On the facts and circumstances, the ratio of the decision of Delhi tribunal in ITA No. 738/Del/2014 dated 20.09.2016, supra, is clearly applicable to this case and hence the AO is directed to delete the penalty.

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

Order pronounced on Monday, the 05th day of November, 2018 at Chennai.

Sd/-

(एन.आर.एस .गणेशन)

(N.R.S. GANESAN)

न्यायिकसदस्य/Judicial Member

Sd/-

(एसजयरामन)

(S. JAYARAMAN)

लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated: 05th November , 2018

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent

4. आयकरआयुक्त/CIT 5. विभागीयप्रतिनिधि/DR

3. आयकरआयुक्त) अपील(/CIT(A)

6. गार्डफाईल/GF