

**IN THE INCOME TAX APPELLATE TRIBUNAL
CAMP BENCH 'SMC' AT JALANDHAR**

Before Sh. N. K. Saini, Hon'ble Vice President

ITA No.448/Asr./2018 : Asstt. Year : 2009-10

Sh. Avinash Singh, C/o M/s Jarnail Singh & Sons, Milap Chowk, Jalandhar	Vs	Income Tax Officer, Ward-3(1), Jalandhar
(APPELLANT)		(RESPONDENT)
PAN No. AQVPS7827C		

Assessee by : Sh. J. S. Bhasin, Adv.

Revenue by : Sh. Ankit Kumar Aggarwal, DR

Date of Hearing : 11.01.2019

Date of Pronouncement : 16.01.2019

ORDER

This is an appeal by the assessee against the order dated 03.05.2018 of 1d. CIT(A)-2, Jalandhar.

2. The only grievance of the assessee in this appeal relates to the confirmation of penalty levied by the AO u/s 271(1)(c) of the Income Tax Act, 1961 (hereinafter referred to as the Act) amounting to Rs.1,69,073/-.

3. Facts of the case in brief are that the assessee filed the return of income on 16.07.2009 declaring an income of Rs.3,40,690/- which was processed u/s 143(1) of the Act. Later on, the case was selected for scrutiny. The AO framed the assessment at an income of Rs.9,40,690/- by making an addition of Rs.6,00,000/- on account of deposits made in the saving bank account.

4. Being aggrieved the assessee carried the matter to the Id. CIT(A) who sustained the addition made by the AO. Thereafter, the AO levied the impugned penalty. Against the levy of penalty u/s 271(1)(c) of the Act, the assessee preferred an appeal to the Id. CIT(A) who sustained the penalty by observing that the AO was justified in initiating and imposing the penalty u/s 271(1)(c) of the Act.

5. Now the assessee is in appeal. The Id. Counsel for the assessee submitted that the AO initiated the penalty in the assessment order for concealing the particulars of income while the penalty was levied for furnishing the inaccurate particulars of income. Therefore, the penalty initiated was on different limb than the penalty levied.

6. In his rival submissions, the Id. DR strongly supported the orders of the authorities below.

7. I have considered the submissions of both the parties and perused the material available on the record. In the present case, it is an admitted fact that the AO initiated the penalty proceedings u/s 271(1)(c) of the Act for concealing the particulars of income which is evident from page no. 5 of the assessment order dated 21.11.2011. However, the penalty was levied by the AO for furnishing of inaccurate particulars of income. Therefore, it is clear that the initiation of penalty proceedings were on different count than the levy of penalty. In that view of the matter, the penalty levied by the AO on different charge than the initiation of penalty proceedings was not justified and the Id. CIT(A) without appreciating this fact wrongly confirmed the same. Accordingly, the impugned penalty is deleted.

8. In the result, the appeal of the assessee is allowed.
(Order Pronounced in the Court on 16/01/2019)

Sd/-
(N. K. Saini)
VICE PRESIDENT

Dated: 16/01/2019

Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR