

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES "A", JAIPUR

श्री रमेश सी शर्मा, लेखा सदस्य एवं श्री विजय पाल राव, न्यायिक सदस्य के समक्ष  
BEFORE: SHRI RAMESH C SHARMA, AM & SHRI VIJAY PAL RAO, JM

आयकर अपील सं./ITA No. 1111/JP/2018  
निर्धारण वर्ष / Assessment Year :2009-10

Deepak Baid, B-114A, Tej Kunj, Dayanand Marg, Tilak Nagar, Jaipur- 302004.	बनाम Vs.	Deputy Commissioner of Income Tax, Circle-2, Jaipur.
स्थायी लेखा सं./जीआईआर सं./ PAN/GIR No.: AEQPB 5538 J		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Himanshu Goyal (CA)  
राजस्व की ओर से / Revenue by : Shri J.C. Kulhari (JCIT)

सुनवाई की तारीख / Date of Hearing : 22/01/2019  
उदघोषणा की तारीख / Date of Pronouncement : 24/01/2019

आदेश / ORDER

PER: R.C. SHARMA, A.M.

This is the appeal filed by assessee against the order of Id.CIT(A)-I, Jaipur dated 31/07/2018 for the A.Y.2009-10 in the matter of imposition of penalty of Rs. 15,000/- U/s 271(1)(c) of the Income Tax Act, 1961 (in short the Act).

2. Rival contentions have been heard and record perused. The facts in brief are that during the year under consideration, the assessee had advanced Rs. 1.60 lacs to M/s Bhawani Gas Service. During the

assessment year itself, M/s Bhawani Gas Service repaid some part of the advance money. However, no details was given to the assessee by M/s Bhawani Gas Service as regards the bifurcation of amount paid on account of portion of interest and principal. In the next year, balance full and final amount was received by the assessee from M/s Bhawani Gas Service. The excess amount received over and above the original amount advanced by the assessee was duly credited and offered for tax amounting to Rs. 43,867/- under the head interest received account. While passing the order U/s 143(3) of the Act, the Assessing Officer held that proportionate interest relating to the year under consideration was not offered by the assessee in the return of income, therefore, levied penalty of Rs. 15,000/-, which was confirmed by the Id. CIT(A), against which the assessee is in further appeal before us.

3. We have considered the rival contentions and carefully gone through the orders of the authorities below and found from the record that the amount of loan repaid to the assessee during the year was without bifurcation, therefore, the assessee could not offer the proportionate interest during the year under consideration, however, in the subsequent year when the balance amount was received, the assessee offered amount received in excess of the principal as interest income and also paid tax thereon. Thus, there does not appear to be any

conscious intention of assessee to conceal particulars of income in so far as the same was offered to tax as soon as bifurcation of loan and interest was received during the immediately succeeding year. There is no dispute to the fact that the assessee had offered the interest income in the immediately subsequent year in the return filed in due course. From the record we found that even in the quantum appeal, the Id. CIT(A) has not confirmed the addition made by the Assessing Officer on account of proportionate interest accrued to the assessee but the matter was restored to the file of the Assessing Officer for verifying the actual position. Keeping in view the totality of the facts and circumstances of the case, it is not a fit case for imposition of penalty U/s 271(1)(c) of the Act. Accordingly, the Assessing Officer is directed to delete the penalty of Rs. 15,000/-.

4. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 24<sup>th</sup> January, 2019.

Sd/-

(विजय पाल राव)

(VIJAY PAL RAO)

न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 24<sup>th</sup> January, 2019

\*Ranjan

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Shri Deepak Baid, Jaipur.

Sd/-

(रमेश सी शर्मा)

(RAMESH C SHARMA)

लेखा सदस्य / Accountant Member

2. प्रत्यर्धी/ The Respondent- The DCIT, Circle-2, Jaipur.
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त(अपील)/The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर/DR, ITAT, Jaipur
6. गार्ड फाईल/ Guard File (ITA No. 1111/JP/2018)

आदेशानुसार/ By order,

सहायक पंजीकार/Asst. Registrar