

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR (SMC)**

BEFORE SH. SANJAY ARORA, ACCOUNTANT MEMBER

I.T.A. No. 240/Asr/2018
Assessment Year: 2004-05

Jaspal Singh, s/o Swaran Singh, 45-GF, B-Block, Ranjit Avenue, Amritsar [PAN: ABQPS 7190G] (Appellant)	vs.	Income Tax Officer, Ward-5(2), Amritsar (Respondent)
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Appellant by : Sh. Padam Bahl, CA

Respondent by: Sh. Charan Dass, Sr. D.R.

Date of Hearing: 19.02.2019

Date of Pronouncement: 15.05.2019

ORDER

Per Sanjay Arora, AM:

This is an Appeal by the Assessee agitating the Order by the Commissioner of Income Tax (Appeals)-2, Amritsar ('CIT(A)' for short) dated 26.3.2018, confirming the levy of penalty u/s. 271(1)(c) of the Income Tax Act, 1961 ('the Act' hereinafter) for the Assessment Year (AY) 2004-05 by the Assessing Officer (AO) vide his order dated 30.8.2016.

2. The penalty in this case is on an addition of Rs.2.70 lacs on account of unexplained investment in acquisition of immovable property, as sustained in the appellate proceedings. In the quantum proceedings, in challenge before the Tribunal (in ITA No. 445/Asr/2016 dated 08.5.2019), the same have since been restored back to the file of the AO to frame the assessment afresh after allowing

the assessee due opportunity of being heard. The final findings by the tribunal in ITA No. 445/2016, which are relevant for the purpose, are reproduced as under:

‘4.6 In view of the foregoing, the matter, setting aside the assessment, is restored back to the file of the AO for the purpose. That is, to proceed from the stage of the issue of notice u/s. 148(1), which is undisposed. The decisions by the Hon’ble Apex Court and the jurisdictional High Court, cited supra, completely answer the questions arising in this case, including that *qua* the validity of the reasons recorded. I decide accordingly.

The assessment having been set aside, the penalty proceedings shall abate. The penalty order is, accordingly, cancelled. The Assessing Officer (AO) shall, however, be at liberty to, on finalizing the fresh assessment, initiate penalty proceedings, i.e., where deemed fit and proper in the facts and circumstances of the case, after recording satisfaction in its’ respect. I decide accordingly.

3. In the result, the assessee’s appeal is allowed.

Order pronounced in the open court on May 15, 2019

Sd/-
(Sanjay Arora)
Accountant Member

Date: 15.05.2019

/GP/Sr. Ps.

Copy of the order forwarded to:

- (1) The Appellant: Jaspal Singh s/o Swaran Singh,
45-GF, B-Block, Ranjit Avenue, Amritsar
- (2) The Respondent: Income Tax Officer, Ward-5(2), Amritsar
- (3) The CIT(Appeals)-2, Amritsar
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T

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By Order