

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'C' NEW DELHI

BEFORE SHRI G. D. AGRAWAL, VICE PRESIDENT
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER

I.T.A. No. 5696/DEL/2016
A.Y 2012-13

IFCI Venture Capital Funds Ltd. IFCI Tower, 16 th floor 61, Nehru Place New Delhi 110 019 PAN: AAACR3037R	Vs	DCIT (E) Circle-1(1) New Delhi
(Appellant)		(Respondent)

Appellant by	Sh. Sanjay Agrawal, C.A. Ms. Indu Gupta, CFO
Respondent by	Sh. Amit Katoch, Sr. DR

Date of Hearing	04.06.2019
Date of Pronouncement	07.06.2019

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 01/09/2016 passed by CIT(A)-35, New Delhi for Assessment Year 2012-13.

2. The grounds of appeal are as under:-

"1. That the Appellate Order of the learned Commissioner of Income Tax (Appeals)-35, New Delhi (here-in-after referred to as the 'CIT (Appeals)) is bad in law and wrong on facts and must be quashed.

2. That on the facts and in the circumstances of the case, the learned CIT (Appeals) has erred in confirming the penalty u/s 271(1)(c) of the Income Tax

Act, 1961 in respect of interest on income tax refunds not received by the appellant.

3. That on the facts of the case, the learned CIT (Appeals) has erred in stating in Para-4 of the order that "In the result, the appeal is dismissed" whereas the appeal has been partly allowed.

4. That the appellant craves leave to reserve to itself the right to add, alter, amend or vary any ground(s) at or before the time of hearing."

3. The assessee Company is engaged in the business of project financing and asset management. The assessee company e-filed its return of income on 28.09.2012 declaring total income of Rs.26,00,50,950/-. Case was selected for scrutiny and assessment in this case was completed u/s 143(3) of the Income Tax Act, 1961 (the Act) on 09.01.2015 thereby making an addition on account of interest received on income tax refund was not offered for tax and disallowance of expenses u/s 14A. Penalty proceedings u/s 271(1)(c) of the Act for furnishing inaccurate particulars of income were also initiated by the Assessing Officer and penalty notice was issued on 09.01.2015. The Assessing Officer u/s 271(1)(c) has imposed penalty of Rs.3,53,210/- in respect of furnishing of inaccurate particulars of income to the extent of Rs.9,56,835/- which was relating to interest received on income tax refund but not offered for tax.

4. Being aggrieved by the penalty order, the assessee filed appeal before the CIT(A) and the CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the order of the CIT(A) is non-speaking and there was no furnishing of inaccurate particulars on part of the assessee relating to interest received on income tax refunds. The Ld. AR further submitted that Form 26AS issued by the Revenue department wherein the interest column has been specifically mentioned 'not applicable'. Thus Ld. AR submitted that penalty order itself is bad in law.

6. The Ld. DR relied upon the order of the CIT(A) and the penalty order as well as assessment order.

7. We have heard both the parties and perused all the material available on record. The CIT(A) invoked Sec. 271(1)(c) of the Act and that too the limb of 'of inaccurate particulars of income' filed by assessee. The Revenue has to clearly state as to which particulars are not being filed accurately. Form 26AS is the document issued by the Revenue and in the said document the interest portion has been shown as 'not applicable'. If the department itself has not given a proper quantification, it will not be appropriate on part of the Revenue to take a plea that the assessee filed inaccurate particulars of income. In fact the assessee has offered the refund amount to the tax authorities. Therefore, the Assessing Officer as well as the CIT(A) was not correct in imposing penalty u/s 271(1)(c) of the Act. Therefore, the appeal of assessee stands allowed.

8. In result, appeal of the Assessee is allowed.

Order pronounced in the Open Court on 07th June, 2019.

Sd/-

(G. D. AGRAWAL)
VICE PRESIDENT

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Dated: 07/06/2019

***Gmv**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

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