

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES "SMC": DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.286/Del./2019  
Assessment Year 2014-2015

Smt. Amanpreet Kaur, KP-344, Maurya Enclave, Pitampura, Delhi – 110034 PAN BPGPK2088J	vs.,	The Income Tax Officer, Ward-40(1), New Delhi.
(Appellant)		(Respondent)

ITA.No.287/Del./2019  
Assessment Year 2014-2015

Smt. Dilpreet Kaur, KP-344, Maurya Enclave, Pitampura, Delhi – 110034 PAN AVJPD9210C	vs.,	The Income Tax Officer, Ward-40(1), New Delhi.
(Appellant)		(Respondent)

For Assesseees :	Shri Prabhat Kumar, C.A.
For Revenue :	Shri S.L. Anuragi, Sr. D.R.

Date of Hearing :	29.08.2019
Date of Pronouncement :	02.09.2019

**ORDER**

Both the appeals by different Assesseees are directed against the different Orders of the Ld. CIT(A)-14, New Delhi, Dated 29.11.2018, for the A.Y. 2014-2015 and

Dated 30.11.2018 for the A.Y. 2014-2015, challenging the levy of penalty under section 271(1)(c) of the I.T. Act, 1961.

2. Learned Counsel for the Assessee while arguing in the case of Smt. Amanpreet Kaur referred to show cause notice dated 26.12.2016 issued before levy of penalty in which A.O. has mentioned as under :

*“Have concealed the particulars of your income or furnished inaccurate particulars of such income in terms of Explanation 1, 2, 3, 4 and 5.”*

2.1. He has also referred another notice issued by the A.O. before levy of the penalty Dated 31.05.2017 in which A.O. has mentioned as under :

*“Have concealed the particulars of your income or furnished inaccurate particulars of such income in terms of Explanation 1, 2, 3, 4 and 5 to Section 271 of the I.T. Act, 1961.”*

2.2. Learned Counsel for the Assessee in the case of Smt. Dilpreet Kaur referred to the similarly worded show cause notices issued before levy of the penalty of the same

day and has submitted that penalty proceedings are illegal and liable to be quashed because it is not clear whether penalty was initiated for furnishing inaccurate particulars of income or for concealment of particulars of income. He has submitted that issue is covered by the Judgment of the Hon'ble Delhi High court in the case of Pr. CIT vs. M/s. Sahara India Life Insurance Company Ltd., reported in 2019 (8) TMI 409 (Del.) vide Judgment Dated 02.08.2019 in paras 21 and 22 the Hon'ble Delhi High Court held as under :

*“21. The Respondent had challenged the upholding of the penalty imposed under Section 271(1) (c) of the Act, which was accepted by the ITAT. It followed the decision of the Karnataka High Court in CIT v. Manjunatha Cotton & Ginning Factory 359 ITR 565 (Kar) and observed that the notice issued by the AO would be bad in law if it did not specify which limb of Section 271(1) (c) the penalty proceedings had been initiated under i.e. whether for concealment of particulars of income or for furnishing of inaccurate particulars of income. The Karnataka High Court had followed the above judgment in the subsequent*

*order in Commissioner of Income Tax v. SSA's Emerald Meadows (2016) 73 Taxman.com 241 (Kar), the appeal against which was dismissed by the Supreme Court of India in SLP No.11485 of 2016 by order dated 5th August, 2016.*

22. *On this issue again this Court is unable to find any error having been committed by the ITAT. No substantial question of law arises.”*

2.3. He has, therefore, submitted that penalty is not leviable in the matter.

3. The Ld. D.R. on the other hand relied upon the Orders of the authorities below.

5. After considering the rival submissions, I am of the view that penalty is not leviable in the matter. In the above cases, the A.O. issued show cause notices for levy of penalty under section 271(1)(c) of the Act which is bad in law as it did not specify in which limb of Section 271(1)(c) of the Act, the penalty proceedings had been initiated i.e., whether for concealment of particulars of income or

furnishing inaccurate particulars of income. The entire penalty proceedings are, therefore, vitiated and no penalty is leviable. On this score itself similar view is taken by Hon'ble Karnataka High Court in the case of CIT vs. M/s. SSAs Emerald Meadows 73 taxmann.com 241. This decision is confirmed by the Hon'ble Supreme Court reported in 73 taxmann.com 248. Further, the Hon'ble Delhi High court recently vide Order dated 02.08.2019 in the case of Pr. CIT vs. M/s. Sahara India Life Insurance Company Ltd., (supra) following the decision of Hon'ble Supreme Court in the case of M/s. SSAs Emerald Meadows (supra) confirmed cancellation of the penalty. I, therefore, following the aforecited decision of the Hon'ble Delhi High Court in the case of Pr. CIT vs. M/s. Sahara India Life Insurance Company Ltd., (supra) set aside the Orders of the authorities below and cancel the penalty.

6. In the result, appeals of Assesseees are allowed.

Order pronounced in the open Court.

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

Delhi, Dated 2<sup>nd</sup> September, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT "SMC" Bench
6.	Guard File

//By Order//

Asst. Registrar : ITAT : Delhi Benches :  
Delhi.

Date of dictation	29.08.2019
Date on which the typed draft order is placed before the dictation Member	29.08.2019
Date on which the approval draft comes to the Sr. PS	2.09.2019
Date on which the fair order is placed before the Dictation member for pronouncement	2.09.2019
Date on which the fair order comes back to the Sr. P.S.	2.09.2019
Date on which the final order is uploaded on the website of ITAT	2.09.2019
Date on which the file goes to the Bench Clerk	2.09.2019
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order.	

