

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES 'G', NEW DELHI**

Before Sh. Amit Shukla, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 2633/Del/2017 : Asstt. Year : 2005-06

ITA No. 2634/Del/2017 : Asstt. Year : 2006-07

ITA No. 2635/Del/2017 : Asstt. Year : 2007-08

ITA No. 2636/Del/2017 : Asstt. Year : 2008-09

ITA No. 2637/Del/2017 : Asstt. Year : 2009-10

ITA No. 2638/Del/2017 : Asstt. Year : 2010-11

Mr. Sukhminder Singh Brar, 527B, 5 th Floor, HBN Officer, D- Mall, Distt. Centre, Paschim Vihar, New Delhi-110087	Vs	DCIT, Central Circle-29, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAQPB1265L		

Assessee by : None

Revenue by : Sh. S. S. Rana, CIT DR

Date of Hearing: 22.08.2019

Date of Pronouncement: 16.09.2019

ORDER

Per Bench:

The present appeals have been filed by the assessee against the orders of the Id. CIT(A)-30, New Delhi dated 30.01.2017.

2. None appeared on behalf of the assessee.

3. Since, the issues involved in all these appeals are common, they were heard together and are being disposed off by common order.

4. Before us, the assessee sought to raise and has filed petition for admission of additional grounds of appeal which are as under:

"Under the facts and the circumstances of the case, the order of penalty passed under section 271(1)(c) of the Act is bad in law as the notice issued under section 274 read with section 271 of the Act is not discernable as to whether the penalty proceedings is initiated for furnishing of inaccurate particulars of income or concealment of income and therefore, the impugned penalty order passed deserves to be cancelled."

5. By the power vested to this Tribunal as held by the Hon'ble Supreme Court in the case NTPC Vs CIT 229 ITR 383 regarding the jurisdiction to examine a question of law which arises from the facts as found by the authorities below and having a bearing on the tax liability of the assessee, the additional ground is hereby allowed.

6. From the record, we find that the Assessing Officer has satisfied that the assessee has concealed inaccurate particulars of his income in respect of the cash credit and initiated penalty proceedings u/s 271(1)(c) of the Act. Further, in the penalty order, the Assessing Officer has mentioned that the assessee is in default for concealing his income by furnishing inaccurate particulars of his income.

7. Since, the grounds have been raised by the assessee for the first time before the Tribunal, the revenue hasn't got the opportunity to adjudicate on this issue. Hence, the fitness of things, we deem it proper to remand the matter back to the file of the Id. CIT (A) with directions to examine the issue on obtaining the penalty notice in original, keeping in view, the judgments of Hon'ble High Court of Karnataka in the case of

Manjunatha Cotton & Ginning Factory, Sahara India Commercial Corporation Ltd. in WTA No. 12/Del/2011 dated 16.11.2017 and Sundram Finance Ltd. 403 ITR 407 and CIT Vs Smt. Kaushalya 216 ITR 660 and adjudicate the matter as deemed fit as per the provisions of the Income Tax Act.

8. In the result, the appeals of the assessee are allowed for statistical purpose.

(Order Pronounced in the Open Court on 16/09/2019).

Sd/-

(Amit Shukla)
Judicial Member

Dated: 16/09/2019

Subodh

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR