

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL,
CHANDIGARH BENCH 'A', CHANDIGARH

श्री संजय गर्ग, न्यायिक सदस्य एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य
BEFORE: SHRI SANJAY GARG, JUDICIAL MEMBER
AND SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA Nos.84 & 85/Chd/2019

निर्धारण वर्ष / Assessment Year : 2010-11

Sh. Balbir Singh Chadha, House No. 2115, Sector-35C, Chandigarh. स्थायी लेखा सं./ PAN NO: AAGPC7960D अपीलार्थी/ Appellant	बनाम	The CIT(Appeals)-2, Chandigarh. प्रत्यर्थी/ Respondent
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निर्धारिती की ओर से/ Assessee by: Shri S.K. Bhasin, CA.

राजस्व की ओर से/ Revenue by : Smt. Chanderkanta, Sr. DR

सुनवाई की तारीख/ Date of Hearing : 14.08.2019

उद्घोषणा की तारीख/ Date of Pronouncement: 26.09.2019

आदेश/ORDER

Per Annapurna Gupta, Accountant Member:

Both the above appeals have been preferred by the same assessee against the separate orders of the Commissioner of Income Tax (Appeals)-2, Chandigarh [(in short referred to as 'CIT(A)'] both dated 28.12.2018, passed u/s 250(6) of the Income Tax Act, 1961, (hereinafter referred to as "Act"), relating to assessment year 2010-11, confirming the levy of penalty.

2. At the outset, it was pointed out that while the appeal in ITA No.84/Chd/2019 challenges the levy of penalty u/s 271B of the Income Tax Act, 1961 (in short 'the Act') on account of failure of the assessee to get its accounts audited before the specified date, as per the provisions of section 44AB of the Act, the appeal in ITA No.85/Chd/2019 challenges the levy of penalty u/s 271F of the Act on account of delay in filing of income tax return ,i.e filing beyond the specified date, for the impugned year i.e. assessment year 2010-11.

3. The Ld.Counsel for the assessee contended that his arguments against the levy of both the penalties was common. Therefore both the appeals were heard together and are being disposed off by this common consolidated order

4. Ld.Counsel for the assessee pointed out that both the defaults were inadvertent and beyond the control of the assessee since the taxation matters of the assessee were being looked after by tax consultants and tax auditors, who due to heavy rush of return had failed to file ITR by the due date alongwith tax audit report u/s 44AB of the Act and since the assessee was away to New Zealand from 6.9.2010 to 16.3.2011, he could not follow up the same with his

consultants and it was only thereafter when the notice u/s 148 of the Act was received by him on 5.11.2017 that the said defaults were acted upon and rectified. The Ld.Counsel for the assessee also pointed out that his return for the impugned year had been subjected to scrutiny and the returned income had been accepted as such without making any addition. Copy of the assessment order passed for the impugned year was filed before us. It was, therefore, stated that even otherwise no prejudice was caused to the Revenue on account of this default of the assessee.

5. Ld.DR on the other hand relied on the order of the CIT(A) pointing out that the busyness of the tax consultant and the absence of the assessee from the country at that point of time does not constitute reasonable cause for the lapse/default, when the assessee could very well have followed up with his consultant for complying with the statutory deadlines.

6. We have heard the rival contentions and do not find it a fit case for levy of penalty for delayed filing of tax audit report and income tax return. Undoubtedly the Revenue could not find any fault in the income returned by the assessee for the impugned year, despite subjecting it to scrutiny assessment. What emerges from the same is that

the non filing of tax audit report and of the return of income by the specified due date was definitely not intentional with the purpose of not disclosing any income for taxation. The plea of the assessee therefore that it was an inadvertent default, on account of the tax consultant being busy with GST returns and the assessee not being able to adequately follow up with him since he was away in New Zealand, appears to be a reasonable cause.

In view of the same we hold that no penalty u/s 271B and 271F was leviable in the present case and direct deletion of both.

7. In the result, both the appeals of the assessee are allowed.

Order pronounced in the Open Court.

Sd/-

संजय गर्ग

(SANJAY GARG)

न्यायकि सदस्य/Judicial Member

दिनांक /Dated: 26th September, 2019

रती

Sd/-

अन्नपूर्णा गुप्ता

(ANNAPURNA GUPTA)

लेखा सदस्य/Accountant Member

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant Registrar