

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES 'SMC', JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य के समक्ष
Before : Shri Vijay Pal Rao, Judicial Member

आयकर अपील सं./ITA No. 1228/JP/2018
निर्धारण वर्ष / Assessment Years : 2013-14

M/s. A Daga Steel & Industrial Corporation 157, Jangid Bhawan, M.I. Road, Jaipur	बनाम Vs.	The ITO Ward- 2(2) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AACFA 2005 P		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by :Shri Aashish Sharma
राजस्व की ओर से / Revenue by : Shri Abhishekh Sharma , Addl. CIT- DR

सुनवाई की तारीख / Date of Hearing : 30/09/2019
घोषणा की तारीख / Date of Pronouncement : 28 /10/2019

आदेश / ORDER

PER VIJAY PAL RAO, JM

This appeal by the assessee is directed against the order dated 05-10-2018 of Id. CIT(A)-1, Jaipur for the Assessment Year 2013-14 wherein the assessee has raised following grounds of appeal.

“1. That the Id. CIT(A) has grossly erred in upholding the levy of penalty of Rs. 23,065/- u/s 271(1)(c).

2. That the Id. CIT(A) has failed to appreciate the fact of deduction being investment in construction of factory building which was done in piecemeal in four years from F.Y. 1991-92 to 1996-97. This aspect was in knowledge of auditor,

accountant and also was submitted before the AO being part and parcel of balance sheet and depreciation chart which were submitted with the returns of income for the respective years. The authorities below had thus wrongly held that assessee has concealed particulars of income.’’

2.1 Brief facts of the case are that the assessee company filed its e- return of income on 21-11-2013 declaring total income of Rs. 8,19,880/- including long term capital gain on sale of immovable property at Rs. 9,72,948/- after claiming the indexed cost of acquisition at Rs. 5,77,502/-. During the assessment proceedings, the AO after verification and examination of evidence of indexed cost of acquisition determined the indexed cost of acquisition at Rs.4,65,531/- . Therefore, while completing the assessment, the AO made an addition of Rs. 1,11,971/- on account of Long Term Capital Gain. The AO subsequently initiated the penalty proceedings u/s 271(1)(c) of the Act and levied the penalty of Rs. 23,065/- being 100% of tax sought to be evaded.

2.2 The assessee challenged the action of the AO before the Id. CIT(A) but could not succeed.

2.3 I have heard the Id.AR as well as Id. DR and considered the relevant material available on record. The addition was made by the AO due to difference in indexed cost of acquisition of property which was sold by the assessee during the year under consideration. It is pertinent to note that during the assessment

proceedings the AO asked the assessee to furnish the details regarding indexed cost of acquisition. The assessee furnished all the details showing yearwise cost of construction of the building from F.Y. 1989-90 to 2001-02. As per these details furnished by the assessee, the AO has accepted the revised computation of indexed cost of acquisition. Thus it is a case where the assessee has produced all the details and particulars regarding the computation of Long Term Capital Gain as well as indexed cost of acquisition of the property in question. Since the construction of the property was spread over for more than 10 years, therefore, there was some discrepancy in the indexed cost of acquisition. The real cost of acquisition is not in dispute but due to cost of acquisition spread over for many years, the computation of indexed cost of acquisition is found varied from the original computation and claim made by the assessee. Once the assessee has produced all the facts and particulars regarding cost of acquisition of the property and if there is a mistake in computation of indexed cost of acquisition which is a matter of verification in the assessment proceedings then the same would not amount to furnishing the inaccurate particulars of income or concealment of particulars of income. Merely because the AO in the assessment proceeding has arrived to a difference in the indexed cost of acquisition and there is no dispute regarding the actual cost of acquisition then the addition made on account of such computation will not ipso

facto lead to the conclusion that the assessee has committed a default of furnishing inaccurate particulars of income to attract the penalty proceedings u/s 271(1)© of the Act. Accordingly, in the present facts and circumstances of the case, the penalty confirmed by the Id. CIT(A) u/s 271(1)(c) of the Act is deleted. Thus the appeal of the assessee is allowed.

3.0 In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 28 /10/2019.

Sd/-
(विजय पाल राव)
(Vijay Pal Rao)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 28 /10/ 2019

*Mishra

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

1. अपीलार्थी / The Appellant- M/s. A Daga Steel & Industrial Corporation, Jaipur
2. प्रत्यर्थी / The Respondent- The ITO, Ward- 2(2), Jaipur
3. आयकर आयुक्त(अपील) / CIT(A),
4. आयकर आयुक्त / CIT,
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No.1228/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar