

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES (SMC), JAIPUR
श्री रमेश सी शर्मा, लेखा सदस्य के समक्ष
BEFORE: SHRI RAMESH C SHARMA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 1426/JP/2018
निर्धारण वर्ष / Assessment Year: 2014-15

Radiant Sattelite (India) Pvt. Ltd., G-247, Road No. 5, IPIA, Kota (Raj).	बनाम Vs.	I.T.O., Ward-1(1), Kota.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AADCR 3673 E		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by: Shri Hemang Gargieya (Adv)
राजस्व की ओर से / Revenue by : Shri Manmohan Kandpal (ACIT)

सुनवाई की तारीख / Date of Hearing : 20/11/2019
उदघोषणा की तारीख / Date of Pronouncement : 21/11/2019

आदेश / ORDER

PER: R.C. SHARMA, A.M.

This is an appeal filed by the assessee against the order of Id. CIT(A), Kota dated 12/09/2018 for the A.Y. 2014-15 in the matter of imposition of penalty U/s 271(1)(c) of the Income Tax Act, 1961 (in short, the Act).

2. Rival contentions have been heard and record perused. Facts in brief are that the assessee is engaged in providing cable operator services. During the course of scrutiny assessment, the A.O. made

various disallowances out of expenses claimed by the assessee. The assessee accepted the disallowances of expenses made under the head festival expenses, travelling expenses, printing and stationary expenses and telecasting expenses etc. Thereafter the A.O. also levied penalty U/s 271(1)(c) of the Act with respect to ad hoc disallowance so made by him. The A.O. also imposed penalty with regard to disallowance of employees contribution which was not paid within the due time stipulated under the employees provident fund scheme, accordingly, the same was also disallowed U/s 36(1)(va) of the Act. The penalty so levied was confirmed by the Id. CIT(A), against the assessee is in further appeal before the ITAT.

3. At the outset, the Id AR of the assessee has pointed out defect in the notice issued U/s 271(1)(c) r.w.s. 274 of the Act for initiating penalty proceedings and contended that it is not clear from the notice as to for which default, this notice was issued. Accordingly, in view of various judicial pronouncements, penalty levied by the A.O. is not sustainable. With regard to merit of the addition, the Id AR has contended that there was part disallowance of expenses claimed by the assessee, therefore, in view of decision of the Hon'ble Supreme Court in the case of CIT Vs

Reliance Petroproducts (P) Ltd. (2010) 322 ITR 158 (SC) no penalty is imposable.

4. On the other hand, the Id DR has relied on the orders of the authorities below.

5. I have considered the rival contentions and carefully gone through the orders of the authorities below and found from the record that the penalty has been levied by the A.O. merely on account of ad hoc disallowance of expenses so made. The Hon'ble Supreme Court in the case of CIT Vs Reliance Petroproducts (P) Ltd. (supra) have clearly held that mere disallowance of part of expenditure will not amount to concealment of particulars of income so as to visit the assessee from penal provisions. Where there is no finding that any details supplied by the assessee in its return are found to be incorrect or erroneous or false, there is no question of inviting the penalty U/s 271(1)(c) of the Act. A mere making of claim which is not sustainable in law by itself will not amount to furnishing inaccurate particulars regarding income of the assessee. Applying the proposition of law as laid down by the Hon'ble Supreme Court to the facts of the instant case, I observe that the penalty has been levied merely for ad hoc disallowance of part of

expenses. Accordingly, it is not a fit case for levy of penalty U/s 271(1)(c) of the Act, therefore, I direct the A.O. to delete the same.

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

Order pronounced in the open court on 21st November, 2019

Sd/-
(रमेश सी शर्मा)
(RAMESH C SHARMA)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 21st November, 2019

*Ranjan

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

1. अपीलार्थी / The Appellant- Radiant Sattelite (India) Pvt. Ltd., Kota.
2. प्रत्यर्थी / The Respondent- The I.T.O., Ward-1(1), Kota.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 1426/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar