

आयकर अपीलीय अधिकरण, दिल्ली न्यायपीठ “डी”, दिल्ली में
IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH ‘D’, NEW DELHI

सुश्री सुषमा चावला, उपाध्यक्ष, एवं श्री एन. के. बिलैया, लेखा सदस्य के समक्ष,
BEFORE MS. SUSHMA CHOWLA, VICE PRESIDENT

&

Sh. N.K. BILLAIYA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.2425/Del/2018
निर्धारण वर्ष / Assessment Year: 2014-15

Smt. Deepa Krishen,
E-69, VasantMarg,
Vasant Vihar,
New Delhi-110057
PAN-AEPPK7915G

.....अपीलार्थी/Appellant

vs

ACIT,
Circle-33(1),
New Delhi

..... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : None

प्रत्यर्थी की ओर से / Respondent by : Sh. Pradeep Singh Gautam, Sr. DR

सुनवाई की तारीख / Date of Hearing: 13.01.2020	घोषणा की तारीख / Date of Pronouncement: 27.01.2020
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आदेश / ORDER

PER SUSHMA CHOWLA, VP

The appeal filed by the assessee is against the order of CIT(A)-11, New Delhi, dated 01/02/2018, relating to assessment year 2014-15 against penalty levied under section 271(1)(c) of the Income Tax Act, 1961 (in short “Act”).

2. Despite service of notice, none was present on behalf of the assessee.
3. The only issue raised in the present appeal is against the levy of penalty of Rs.14,08,870/- u/s 271(1)(c) of the Act.
4. Briefly in the facts of the case the assessee has derived income from salary, house property, business or profession, capital gain and other sources and e-filed return of income declaring income of Rs.11,29,48,720/- on 31.07.2014. The Assessing Officer has initiated penalty proceedings for furnishing of inaccurate particulars of income. However, in the penalty order, the Assessing Officer levied the penalty for concealment of income.
5. Penalty for concealment u/s 271(1)(c) of the Act is leviable where the assessee had neither concealed its income or furnished inaccurate particulars of income. The Assessing Officer while completing the assessment has to record satisfaction in this regard, in order to show cause the assessee as to which limb of section 271(1)(c) of the Act has not been satisfied by it. This is the basic condition of the aforesaid section. On perusal of the assessment order passed for the instant assessment year reflects satisfaction was recorded for furnishing of inaccurate particulars of income and levied for concealment of income. In such facts & circumstances, the requirements of the section have not been met. Merely, an order issuing notice u/s 274 r.w.s. 271(1)(c) of the Act do not meet the conditions of the said initiation of penalty proceedings. In the absence of the same, there is no merit in the penalty order passed in the case in this

regard. We find support from the ratio laid down by the Hon'ble Bombay High Court in CIT vs Shri Samson Perinchery (2017) 392 ITR 4 (Bom.). We hold that in the absence of recording proper satisfaction, while initiating the penalty proceedings u/s 271(1)(c) of the Act, order passed u/s 271(1)(c) of the Act suffers from infirmity. Hence, the same is cancelled. Grounds of appeal raised by the assessee are thus allowed.

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

Order pronounced in the open court 27th day of January, 2020.

Sd/-

(N. K. BILLAIYA)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(SUSHMA CHOWLA)

उपाध्यक्ष /VICE PRESIDENT

दिल्ली / दिनांक Dated : 27th January, 2020.

Amit Kumar

आदेश की प्रतिलिपि प्रेषित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त (अपील) / The CIT(A)
4. मुख्य आयकर आयुक्त / The Pr. CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, दिल्ली / DR, ITAT, Delhi
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सहायक रजिस्ट्रार, आयकर अपीलीय अधिकरण, दिल्ली
Assistant Registrar, ITAT, Delhi