

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH, CHENNAI,
CAMP AT COIMBATORE

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष
BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.2291/Chny/2018

(निर्धारण वर्ष / Assessment Years: 2010-2011)

Shri. Shyam Karthik,
No.6-19A. J V Avenue,
Thirumurugan nagar,
Veeriyampalayam Road,
Kalapatti,
Coimbatore 641 048.

Vs The Assistant Commissioner of
Income Tax,
Central Circle,-2,
Coimbatore

PAN: CGEPS 9381J

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by

: Shri B. Ramakrishnan, C.A.

प्रत्यर्थीकीओरसे/Respondent by

: Shri Pavitran Kumar, JCIT

सुनवाईकीतारीख/Date of hearing

: 06.02.2020

घोषणाकीतारीख /Date of Pronouncement

: 06.02.2020

आदेश / O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the assessee is directed against the order passed by
the Commissioner of Income Tax (Appeals)-18, Chennai dated 23.11.2017

confirming penalty levied u/s.271 (1) (c) of the Income Tax Act, 1961 (in short "the Act") and pertains to the assessment year 2010-2011.

2. There is a delay of 192 days in filing the appeal before this Tribunal. The assessee has filed petition for condonation of delay. Having heard the Ld. Representative for the assessee and the Ld.DR, this Tribunal finds that there was reasonable cause on the part of the assessee for not filing the appeal before the stipulated time. Therefore, the delay of 192 days is condoned and the appeals is admitted.

3. Shri. B. Ramakrishnan, Ld. Representative for the assessee submitted that during the course of search operation, the assessee's father Shri. P. Padmanabhan declared an undisclosed income in the hands of the assessee to the extent of Rs.6,18,000/-. Since assessee's father declared the income in the hands of the assessee , the assessee also filed the return offering the very same amount for taxation. The Assessing Officer accepted the return filed by the assessee. According to the Id. Representative there was no concealment of income or furnishing of any inaccurate particulars of income. Since the father offered for taxation and the assessee filed the return, therefore there cannot be any penalty.

4. On the contrary, Shri Pavitran Kumar, the Ld. Departmental Representative submitted that the assessee has not filed any return of income voluntarily before the search. Only after the search, the assessee filed return of income disclosing income of Rs.6,18,000/-The Id. DR submitted that return was filed subsequent to search and it is invalid return. Therefore, the AO has rightly levied penalty.

5. We have considered the rival submissions on either side and perused the relevant material available on record. It is not known the source of income of the assessee other than the declaration given by the assessee's father during the course of search operation. There was no other material to show that assessee had earned the income. Merely because the assessee filed return of income disclosing the amount declared by the assessee's father, this Tribunal is of the considered opinion that it cannot be construed as concealment of income or furnishing of any inaccurate particulars of such income. Therefore, penalty levied by the AO as confirmed by the CIT(A) is not sustainable in law. Therefore the appeal filed by the assessee is allowed. Penalty is deleted.

6. In the result, the appeal filed by the assessee in ITA No.2291/CHNY/2018 for assessment year 2010-2011 is allowed.

Order pronounced in the court on 6th February, 2020 at Camp at Coimbatore.

Sd/-

(एस जयरामन)

(S. JAYARAMAN)

लेखासदस्य/Accountant Member

Sd/-

(एन.आर.एस. गणेशन)

(N.R.S. GANESAN)

न्यायिकसदस्य/Judicial Member

Coimbatore

दिनांक/Dated, the 6th February, 2020.

KV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकरआयुक्त (अपील)/CIT(A)

4. आयकरआयुक्त/CIT

5. विभागीयप्रतिनिधि/DR

6. गार्डफाईल/GF