

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

**BEFORE SHRI A. K. GARODIA, ACCOUNTANT MEMBER AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

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| ITA No.3241/Bang/2018 |
| Assessment year : 2014-15 |

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| Shri. Negalala Anantharamu Rajesh, No.35, 19 th Cross, 24 th Main, 5 th Phase, JP Nagar, Bengaluru – 560 078. PAN : AASPR 6549 P | Vs. | Income Tax Officer, Ward–5(3)(5), Bengaluru. |
| APPELLANT | | RESPONDENT |

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| Assessee by | : | Shri. Siddesh Gaddi, CA |
| Revenue by | : | Smt. Kabila H.J, CIT (DR)(ITAT), Bengaluru |

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| Date of hearing | : | 05.02.2020 |
| Date of Pronouncement | : | 13.03.2020 |

ORDER

Per A.K. Garodia, Accountant Member

This appeal is filed by the assessee and the same is directed against the order of learned CIT(A)-5, Bengaluru dated 10.09.2018 for the Assessment Year 2014-15.

2. The assessee has raised as many as 7 grounds of appeal but the only grievance is regarding penalty of Rs.4,80,992/- imposed by the AO under section 271(1)(c) of the Income Tax Act, 1961.

3. In the course of hearing, learned AR of the assessee submitted that the copy of notice issued by the AO under section 274 r.w.s. 271 is available on page No.4 of the Paper Book and he pointed out that in this notice, the AO has not made it clear as to what is his allegation and he has simply stated that the assessee has concealed the particulars of income or furnished inadequate particulars of income without pinpointing as to what is the exact allegation of the AO. He submitted that under these facts, the penalty order is not sustainable and in support of this contention, he placed reliance on the judgment of Hon'ble Karnataka High Court rendered in the case of CIT Vs. Manjunatha Cotton and Ginning Factory reported in 359 ITR 565. Learned DR supported the order of CIT(A).

4. We have considered the rival submissions. We find that although in para 4 of the Assessment Order, the AO has stated that the assessee has concealed the particulars of income and furnished inadequate particulars of income but in the penalty notice issued by the AO as available on page 4 of the Paper Book, his allegation is very vague because in this notice, he is saying that the assessee has concealed the particulars of income or furnished inadequate particulars of such income. In the penalty order passed by the AO, the penalty has been imposed by the AO by saying that this penalty is imposed for furnishing inadequate particular of income. Hence, it is seen that the allegation is changing because in the Assessment Order is different and the same is different in the penalty notice and again the same is different in the penalty order passed by the AO. Under these facts, we are of the considered opinion that the penalty order is not valid because as per this judgment of the Hon'ble Karnataka High Court rendered in the case of CIT Vs. Manjunatha Cotton and Ginning Factory (supra), notice under section 274 of the IT Act, 1961 should specifically state the grounds mentioned in Section 271(l)(c) of the IT Act, 1961, i.e., whether it is for concealment of

income or for furnishing of incorrect particulars of income and if that is not done, then the penalty order is bad in law. In the present case, we have seen that the allegation is changing and it is different in the Assessment Order and in the notice and in the penalty order and hence, this judgment is squarely applicable and respectfully following the same, we hold that the penalty order is bad in law.

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

Pronounced in the open court on the date mentioned on the caption page.

(BEENA PILLAI)
Judicial Member

(A.K. GARODIA)
Accountant Member

Bangalore,

Dated: March, 2020.

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| 1. Appellants | 2. Respondent | 3. CIT |
| 4. CIT(A) | 5. DR, ITAT, Bangalore. | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore.