

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad
(Through Video Conferencing)
Before Smt. P. Madhavi Devi, Judicial Member
AND
Shri Laxmi Prasad Sahu, Accountant Member

ITA No.1763/Hyd/2019		
Assessment Year: 2007-08		
Income Tax Officer Ward 15(2) Hyderabad (Appellant)	Vs.	Sri B. Shankar Hyderabad PAN:ASFPB5310D (Respondent)
Revenue by:	Sri Sunil Kumar Pandey, DR	
Assessee by:	Sri G. Sudhakar Rao	
Date of hearing:	06/05/2021	
Date of pronouncement:	19/05/2021	

ORDER

Per Smt. P. Madhavi Devi, J.M.

This is Revenue's appeal for the A.Y 207-08 against the order of the CIT (A)-7, Hyderabad, dated 26.9.2019 deleting the penalty levied by the Assessing Officer u/s 271(1)(c) of the Act.

2. Brief facts of the case are that it had come to the knowledge of the Assessing Officer that the assessee individual along with three others had entered into transaction of purchase and sale of land and in the process has received a sum of Rs.87,50,000/- over and above purchase cost and also that he had invested a sum of Rs.1,86,25,000/- for purchase of land. But the assessee has not filed any return of income and has not offered any income to tax. Therefore, the Assessing Officer reopened the assessment of the assessee and brought the sum of

Rs.2,73,75,000/- to tax. Thereafter, the Assessing Officer initiated penalty proceedings u/s 271(1)(c) of the Act by issuing the notice u/s 274 of the Act. Since the assessee did not file any reply, he levied minimum penalty i.e., 100% of the tax sought to be evaded, i.e., Rs.91,58,325/-. Aggrieved, the assessee preferred an appeal to the CIT (A), who deleted the penalty. Against the relief granted by the CIT (A), the Revenue is in appeal before us by raising the following grounds of appeal:

“1) The order of the Hon'ble CIT (A) is erroneous both on facts and as well as on law.

2) The Hon'ble CIT (A) erred in deleting the penalty despite the fact that the quantum addition leading to the levy of penalty was sustained at 1st appeal stage and is alive.

3) The decision of the CIT (A) is not acceptable in view of section 292BB wherein the assessee has not raised any objection during the course of penalty proceedings and claim later that the notice was improper and defective.

4) The appellant craves to add, amend, alter any of the grounds of appeal during the proceedings with prior permission of the Hon'ble ITAT”.

3. After hearing both the parties, we find that the CIT (A) has granted relief to the assessee on the grounds that the notice for levy of penalty u/s 271(1)(c) did not mention the specific ground for which the penalty has been initiated. We find that the CIT (A) has followed the decision of the Hon'ble Karnataka High Court in the case of Manjunatha Cotton & Ginning Factory (359 ITR 565) as well as the decision of the Hon'ble jurisdictional High Court in the case of Pr.CIT vs. Smt. Baisetty Revathi in ITTA No.684/2016 dated 13.7.2017 for granting relief to the assessee. As the decision of the CIT (A) is in accordance with the precedents on the issue, particularly the decision of the Hon'ble jurisdictional

High Court, we do not see any reason to interfere with the order of the CIT (A). The Revenue's appeal is accordingly dismissed.

4. In the result, Revenue's appeal is dismissed.

Order pronounced in the Open Court on 19th May, 2021.

Sd/- (LAXMI PRASAD SAHU) ACCOUNTANT MEMBER	Sd/- (P. MADHAVI DEVI) JUDICIAL MEMBER
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Hyderabad, dated 19th May, 2021.

Vinodan/sps

Copy to:

S.No	Addresses
1	Income Tax Officer, Ward 15(2), 5 th Floor, D Block, IT Towers, AC Guards, Masab Tank, Hyderabad
2	Sri B. Shankar, House No.2-9-77, Uppal, Hyderabad
3	CIT (A)-7, Hyderabad
4	Pr. CIT -7, Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order