

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC-1', NEW DELHI**

Before Ms. Suchitra Kamble, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

(Through Video Conferencing)

ITA No. 6705/Del/2019 : Asstt. Year : 2015-16

Sehgal Packaging Pvt. Ltd., A-44, Naraina Indl. Area, New Delhi-110028	Vs	Income Tax Officer, Ward-23(1), New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. AADCS3735J		

Assessee by : None

Revenue by : Sh. R. K. Gupta, Sr. DR

Date of Hearing: 17.06.2021

Date of Pronouncement: 29.06.2021

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of the Id. CIT(A)-8, New Delhi dated 10.05.2019.

2. Following grounds have been raised by the assessee:

"1. That the Id. CIT (A) erred in law in upholding the imposition of penalty u/s 271(1)(c) at Rs.30,380/- merely on surmises and conjectures and against the facts of the case.

2. That the Id. CIT (A) erred in ignoring the facts under which the additions was made u/s 143(3) order and ignoring the submission made and recorded by him on the process sheet.

3. That the penalty as imposed at Rs.30,380/- is illegal and deserves to be cancelled."

3. The AO made addition of Rs.98,318/- to the total income on account of ROC fee paid towards increase in the authorized share capital. Consequent to the disallowance, penalty u/s 271(1)(c) has been levied by the AO.

4. We find that the page no. 2 below para 5, the Assessing Officer has also mentioned "*that penalty proceedings u/s 271(1)(c) of the Income Tax Act, 1961 or furnishing inaccurate particulars of income and concealment of income is also initiated separately.*"

5. We also find that the para no. 3 of the penalty order reads as under:

"3. The penalty proceedings u/s 271(1)(c) of the Income Tax Act, 1961 was also initiated for furnishing inaccurate particulars of income and concealing income thereof. Accordingly, a notice u/s 274 read with Section 271(1)(c) of the Act was issued to the assessee's company on 12.05.2017."

6. On this issue, we are guided by the following judgments:

- 1) Karnataka High Court: CIT vs. Manjunatha Cotton and Ginning Factory: 359 ITR 565 held that notice under section 274 should specifically state the grounds mentioned in section 271(1)(c) of the Act, i.e., whether it is for concealment of income or for furnishing of incorrect particulars of income. Sending printed form where all the grounds mentioned in section 271 are mentioned would not satisfy requirement of law.
- 2) Bombay High Court: Mr. Mohd. Farhan A. Shaikh Vs ACIT Section 271(1)(c): Penalty-Concealment-Non-striking off of the irrelevant part while issuing notice u/s 271(1)(c) of the Income Tax Act, order is bad in law. Assessee must be

informed of the ground of the penalty proceedings only through statutory notice. An omnibus notice suffers from the vice of vagueness.

- 3) The Hon'ble jurisdictional Delhi High Court in the case of PCIT vs. Sahara India Life Insurance Co. Ltd. in ITA No. 475 of 2019, reiterated that notice under section 274 should specifically state the grounds on which penalty was sought to be imposed as the assessee should know the grounds which he has to meet specifically.
- 4) The aforesaid principle has been reiterated in the in the case of CIT vs. SSA'S Emerald Meadows: 73 taxmann.com 241 (Kar) [Revenue's SLP dismissed in 242 Taxman 180]

7. Hence, respectfully following the order of the Hon'ble Jurisdictional High Court, since the AO has not been specified u/s 274 as to whether penalty is proposed for alleged 'concealment of income' OR 'furnishing of inaccurate particulars of such income', the penalty levied is hereby obliterated.

8. In the result, the appeal of the assessee allowed.
Order Pronounced in the Open Court on 29/06/2021.

Sd/-

(Suchitra Kamble)
Judicial Member

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 29/06/2021

Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR