

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "E" MUMBAI**

**BEFORE SHRI S. RIFAUH RAHMAN (ACCOUNTANT MEMBER) AND  
SHRI RAVISH SOOD (JUDICIAL MEMBER)**

**ITA No. 6159/MUM/2019  
Assessment Year: 2010-11**

Mrs. Swapna Vijay Pandit,  
Plot No. 200, Pandit House,  
28<sup>th</sup> RD, TPS III, Bandra West  
Mumbai-400050.

**PAN No. AADPP 4289 M**

**Appellant**

ACIT-23(3),  
**Vs.** Piramal Chamber Parel,  
Mumbai-400012.

**Respondent**

Assessee by : None  
Revenue by : Mr. Vijay Kumar Menon, DR

Date of Hearing : 01/04/2021  
Date of pronouncement : 21/06/2021

**ORDER**

**PER S. RIFAUH RAHMAN, A.M.**

The present appeal is filed by the assessee against the order of the Commissioner of Income Tax (Appeals)-34, Mumbai [in short 'CIT(A)'] for the assessment year 2010-11 dated 19.11.2012 and arises out of assessment completed u/s 143(3) of the Income Tax Act, 1961 (in short the Act).

2. The brief facts of the case are, assessee filed her return of income on 22.03.2011 declaring total income of Rs.23,44,390/-. The return was processed u/s 143(1) of the Income Tax Act, 1961 (in short 'Act'). Subsequently, the case was selected for scrutiny and statutory notice u/s 143(2) was issued and served

on the assessee. In response, the AR of the assessee attended and submitted the information as called for.

During this assessment proceedings, the AO observed that interest income as per Form 26AS at Rs.8,32,328/- and assessee offered interest at Rs.7,40,712/- . When the same was pointed to the assessee, assessee admitted the additional interest income and offered the same to the tax. Subsequently, penalty proceedings u/s 271(1)(c) was initiated for concealing the particulars of income. Accordingly, notice u/s 274 r.w.s. 271 was issued on 19.11.2012 and served on the assessee. In response, assessee submitted that assessee declared the income in the return of income based on Form 16A given by the Bank of Baroda dated 08.03.2010 in which FD interest was shown at Rs.7,40,712/- and TDS of Rs.75,362/-. However, in Form 26AS it was brought to the notice of the assessee that bank has declared Rs.8,32,328/- and deducted TDS of Rs.84,553/-. The assessee submitted that the assessee could not declare the difference of interest in the return of income because the information provided by the bank was not correct. The Assessing Officer after considering the submissions of the assessee, rejected the contentions of the assessee and observed that assessee filed her return of income on 22.03.2011 whereas the relevant interests were admittedly available in Form 26AS as early as 16.02.2011. Further he observed that the balance interest was offered to tax only after the same was discovered in assessment proceedings and it is not offered voluntarily. Therefore, the assessee has deliberately furnished inaccurate particulars of her income. Accordingly, he imposed penalty.

3. Aggrieved with the above order, the assessee preferred an appeal before the Ld. CIT(A). After considering the submissions of the assessee, he sustained the penalty levied by the Assessing Officer.

4. Aggrieved with the above order, assessee is in appeal before us raising following grounds of appeal read as under :

1. In the facts and circumstances of the case and in law the Ld. CIT(A) erred in confirming the penalty of Rs.28,310/- levied by the AO u/s 271(1)(c) of the Income Tax Act, 1961.
2. Reasons given by the CIT(A) for confirming the penalty of Rs.28,310/- levied by AO u/s 271(1)(c) of the Income Tax Act, 1961, are wrong insufficient and contrary to the facts and evidence on record.

5. At the time of hearing, the Ld. AR submitted that assessee has declared the FD interest based on the Form 16A given by the bank. However, it is brought to the assessee's notice during assessment proceedings that the FD interest declared by the bank in Form 26AS was much more than the FD interest declared by the assessee. He submitted that assessee voluntary agreed to declare the above additional interest for tax and he submitted that assessee not only omitted the interest amount as well as assessee did not take TDS credit in her return of income. He submitted that this is a *bona fide* mistake made by the assessee and assessee has not taken undue advantage of claiming tax credit. He submitted that the case of the assessee will not fall under the category of concealment of income.

6. On the other hand, the Ld. DR relied on the orders passed by the lower authorities.

7. Considered the rival submissions and perused the material on record. We notice that assessee has declared FD interest in her return of income based on Form 16 issued by the bank and however, during assessment proceedings it was brought to her notice that the bank had declared additional FD interest to the extent of Rs.91,616/-. It is brought to our notice that assessee omitted to declare FD interest as per Form 26AS as well as assessee has not taken the respective TDS credited by the bank in her account. After considering the above facts, we agree with the submissions of the Ld. AR that this will fall under the category of *bona fide* mistake and nothing was brought on record to show that assessee deliberately concealed the interest income. Therefore, we do not see any reason to sustain the penalty levied by the Assessing Officer and sustained by Ld. CIT(A). Accordingly, order passed by the Ld. CIT(A) is set aside. Accordingly, the ground raised by the assessee is allowed.

8. In the result, the appeal filed by the assessee is allowed.

**Order pronounced in the open Court on 21/06/2021.**

Sd/-  
(RAVISH SOOD)  
JUDICIAL MEMBER

Sd/-  
(S. RIFAUR RAHMAN)  
ACCOUNTANT MEMBER

Mumbai;

Dated: 21/06/2021

Rahul Sharma, Sr. P.S.

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT

5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,  
(Dy./Assistant Registrar)  
**ITAT, Mumbai**