

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH: CHENNAI

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री जी मंजूनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A No.3225/Chny/2019
Assessment Year: 2007 - 2008

Shri. Praveenchand Nahar,
No.18, General Muthiah Mudali Street,
Sowcarpet,
Chennai – 600 079.

[PAN: AFRPP 1236P]
(अपीलार्थी/Appellant)

The Deputy Commissioner of
Income Tax,
Vs. Central Circle – II(1),
Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034.
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : None
प्रत्यर्थी की ओर से /Respondent by : Ms. R. Anita, JCIT
सुनवाई की तारीख/Date of Hearing : 27.07.2021
घोषणा की तारीख /Date of Pronouncement : 04.08.2021

आदेश / ORDER

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is against the order of the learned Commissioner of Income Tax (Appeals)-16, Chennai in I.T.A. No.118/CIT(A)-18/2010-11 dated 24.09.2019 relevant to the Assessment Year 2007 – 2008.

2. Facts are in brief that the Assessee filed the return of income on 01.11.2007 for the Assessment Year 2007 – 2008 admitting a total loss of Rs.6,67,880/- . The Assessing Officer has completed the assessment u/s.143(3) of the Income Tax Act, 1961 on 24.12.2009 determining the total income at Rs.10,79,956/-. In the course of the assessment proceedings, the Assessing officer has noted that the Assessee has debited an amount of Rs.17,47,836/- in the Profit & Loss Account (P&L) for the year ended 31.03.2007 and this was disallowed, as a result of which the total income was assessed at Rs.10,79,956/-. Subsequently, the Assessing Officer initiated the penalty proceedings u/s.271(1)(c) of the Act to issue notice u/s.,274 of the Income Tax Act, 1961.

3. The Assessee had submitted before the Assessing Officer that he has debited the speculative loss in the Profit & Loss Account was an inadvertent mistake and submitted that he had either concealed any income nor filed any inaccurate particulars and submitted that Section 271(1)(c) of the Act has no application.

4. He also submitted before the Assessing Officer that as per the decision of the Hon'ble Supreme Court in the case of the

Commissioner of Income Tax Vs. Reliance Petro-products Private Limited reported in 322 ITR 158 (SC), no penalty can be levied. However, the Assessing Officer has not accepted the explanation of the Assessee and he has observed that if the Assessee by an inadvertent mistake debited this speculative loss in the Profit & Loss Account, he ought to have filed a revised return of income to correct the mistake. By observing the above, the Assessing Officer has levied the penalty.

5. On appeal, the learned Commissioner of Income Tax (Appeals) confirmed the order of the Assessing Officer.

6. None appeared on behalf of the Assessee.

7. We have heard the learned Departmental Representative and perused the materials available on record and had gone through the orders of the authorities below. The learned Departmental Representative had strongly supported the order passed by the authority below.

8. In this case, the Assessing Officer had levied penalty on the ground that the speculative loss claimed in the Profit & Loss

Account is not allowable and therefore penalty u/s.271(1)(c) of the Income Tax Act, 1961 is levied. The case of the Assessee is that the claim made by the Assessee was an inadvertent mistake and he had prayed that the penalty may be deleted. However, both the authorities below had not accepted the explanation given by the Assessee.

9. We find, in the case of the Commissioner of Income Tax Vs. Reliance Petro-products Private Limited (supra), the Hon'ble Supreme Court has observed that merely because the Assessee had claimed the expenditure, which claim was not accepted or was not acceptable to the Revenue, that by itself would not attract the penalty u/s.271(1)(c) of the Income Tax Act, 1961.

10. By considering the entire facts and circumstances of the case and the explanation given by the Assessee and also by following the judgment of the Hon'ble Supreme Court in the case of the Commissioner of Income Tax Vs. Reliance Petro-products Private Limited (supra), we find that the Assessee had neither concealed the income nor filed any inaccurate particulars. Therefore, Section 271(1)(c) of the Income Tax Act, 1961 has no application.

Accordingly, we reverse the order passed by the learned Commissioner of Income Tax (Appeals) and the penalty levied is deleted.

11. In the result, the appeal filed by the Assessee in I.T.A. No.3225/Chny/2019 is allowed.

Order pronounced on 4th August, 2021 in Chennai.

Sd/-

(श्री जी मंजूनाथा)

(G. MANJUNATHA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(वी दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 4th August, 2021

IA, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/**Copy to:** 1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF