

**IN THE INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "F": NEW DELHI]**

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
(Through Video Conferencing)**

ITANos. 7465 TO 7468/Del/2017
ANDITANos. 7469 & 7471/Del/2017
(Assessment Years: 2006-07 TO 2009-10)
AND(Assessment Years : 2011-12 & 2012-13)

Mrs. Rupinder Dhanoa Sidhu, C/o. R. S. Ahuja & Co., C.A.;; C – 353, Defence Colony, New Delhi – 110 024. PAN: ACIPD0250F	Vs.	ACIT, Central Circle : 31, New Delhi
---	-----	--

(Appellant)		(Respondent)
-------------	--	--------------

Assessee by :	Shri R. S. Ahuja, Advocate;
Department by:	Ms. Kirti Sankratyayan, Sr. D.R.;
Date of Hearing :	08/09/2021
Date of pronouncement :	08/09/2021

ORDER

PER BENCH :

1. These are the six appeals of the same assessee on identical issue of levy of penalty under Section 271(1)(c) of the Income Tax Act, 1961 (the Act), both the parties raised similar arguments and facts are also claimed to be similar and, therefore, those appeals are disposed of by this common order. In all these appeals the claim of the assessee is that the penalty has been levied by the learned assessing officer by issuing notice u/s 274 read with Section 271 (1) © of the income tax act without striking of any of the twin limbs i.e. concealment of income or furnishing of inaccurate particulars of income and therefore the issue squarely covered in favour of the assessee by the decision of the honourable Delhi High Court in case of principal Commissioner of

income tax versus Sahara India life insurance Corporation in ITA. No. 475/2019 dated 2.08.2019.

2. ITA. No. 7465 (Del) of 2017 is filed for assessment year 2006-07 by the assessee against the order passed by the CIT (Appeals)-30, New Delhi, dated 27.10.2017 wherein penalty levied under Section 271(1)(c) of the Act by the ld. ACIT, Central Circle 31, New Delhi, by order dated 24th March, 2017 of Rs.6,120/- was confirmed by the ld. CIT (Appeals).
3. ITA. No. 7466 (Del) of 2017 for assessment year 2007-08 is an appeal filed against the order of the ld. CIT (Appeals) dated 27.10.2017 wherein the penalty levied of Rs.84,573/- under Section 271(1)(c) of the Act by order dated 24th March, 2017 is confirmed.
4. ITA. No. 7467 (Del) of 2017 for assessment year 2008-09 is an appeal filed against the order of the ld. CIT (Appeals) dated 27.10.2017 wherein penalty levied of Rs.8,725/- under Section 271(1)(c) of the Act by the ld. Assessing Officer by order dated 24th March, 2017 is confirmed.
5. ITA. No. 7468 (Del) of 2017 is for assessment year 2009-10 against the order of the ld. CIT (Appeals) order dated 27.10.2017 wherein the penalty levied of Rs.80,332/- under Section 271(1)(c) of the Act by the ld. Assessing Officer by order dated 24th March, 2017 is confirmed.
6. ITA. No. 7469 (Del) of 2017 for assessment year 2011-12 against the order of the ld. CIT (Appeals) order dated 27.10.2017 wherein the penalty levied of Rs.43,216/- under Section 271(1)(c) of the Act by the ld. Assessing Officer by order dated 24th March, 2017 is confirmed.
7. ITA. No. 7471 (Del) of 2017 for assessment year 2012-13 against the order of the ld. CIT (Appeals) order dated 27.10.2017 wherein the penalty levied of Rs.1,23,506/- under Section 271(1)(c) of the Act by

the ld. Assessing Officer by order dated 24th March, 2017 is confirmed. In all these penalty appeals the assessee has challenged the validity of penalty proceedings and has raised identical grounds.

8. The brief facts culled out from the orders for assessment year 2006-07 shows that return of income was filed on 1.03.2007 at Rs.1,66,864/-. The Income Tax Department received an information that assessee is a beneficiary of a bank account opened in her name along with her husband, Shri Raman Singh Sidhu in HSBC Bank, Geneva and, therefore, for assessment year 2006-07 the addition of Rs.11,60,000/- was made on that account. Total income was assessed under Section 153A of the Act vide order dated 27.02.2015 determining total income of the assessee at Rs.13,35,821/-. The penalty proceedings were also initiated under Section 271(1)(c) of the Act.
9. On appeal before the ld. CIT (Appeals) the addition was confirmed only to the extent of Rs. 60,000/-. The penalty notice under Section 274 read with Section 271(1)(c) of the Act was also issued on 27.02.2015. The assessee challenged that the addition is not based on any incriminating document found during the course of search and, therefore, no addition should have been made in view of the decision of the Hon'ble Delhi High Court in the case of CIT Vs. Kabul Chawla (2016) 380 ITR 573 (Del). The ld. Assessing Officer rejected the explanation of the assessee and levied a penalty under Section 271(1)(c) of the Act of Rs.6,120/-. This penalty was further challenged before the ld. CIT (Appeals) who confirmed the same. Therefore, the assessee is in appeal.
10. The first contention of the ld. AR is that penalty levied for these assessment years by the ld. Assessing Officer dated 27.02.2015 suffers from jurisdictional infirmity as the ld. Assessing Officer has not struck off any of the two limbs and, therefore, the penalty levied cannot be sustained. He specifically relied on the decision of the Hon'ble Karnataka High Court in the case of CIT Vs. SSA's Emeralds

Meadows (2016) 73 Taxman.com 241 (Kar.) and submitted that on the solitary ground the penalty deserves to be quashed. He specifically referred to the decision of the Hon'ble Delhi High Court in the case of Pr. CIT Vs. Sahara India Life Insurance Co. Ltd. in ITA. No. 475/2019 dated 2.08.2019 and referred to para No. 21 thereof.

11. He also submitted copies of the notice issued similarly for all other assessment years and submitted that those notices all suffer from similar infirmity and irrespective of the amount of addition or the quantum of the penalty. The issue is squarely covered in favour of the assessee and, therefore, he submitted that penalty levied in all these assessment years deserves to be quashed.
12. The ld. DR vehemently supported the orders of the lower authorities. She also referred to the facts of the case and submitted that assessee has concealed the particulars of income and, therefore, even if the penalty notices are defective the order of the lower authorities deserves to be upheld.
13. We have carefully considered the rival contentions and perused the orders of the lower authorities. We have also perused the notice issued by the ld. Assessing Officer under Section 274 read with Section 271(1)(c) of the Act and found that they are identical and none of the twin charges are struck off by the Assessing Officer. We find that Hon'ble Delhi High Court in Pr. CIT Vs. Sahara India Life Insurance Co. Ltd. (supra) in para No. 21 has decided the identical issue holding that the notice issued by the Assessing Officer would be bad in law if it did not specify for which limb of Section 271(1)(c) the penalty proceedings had been initiated under i.e. whether for concealment of particulars of income or for furnishing of inaccurate particulars of income. Hon'ble Delhi High Court also considered the decision of the Hon'ble Karnataka High Court in CIT Vs. Manjunatha Cotton & Ginning Factory 359 ITR 565 (Kar.) and CIT Vs. SSA's Emeralds Meadows (supra). In view of the above facts, following the decision of the Hon'ble jurisdictional High Court, we find that the issue is squarely covered in favour of the assessee as the penalty notices issued by the Assessing Officer did not specify which limb of

Section 271(1)(c) has been invoked, therefore, we quash the penalty orders for all these years and allow the appeals of the assessee.

14. In the result all the six appeals filed by the assessee are allowed.

Order pronounced in the open court on : 08/09/2021.

**Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Dated : 08/09/2021.

MEHTA

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, New Delhi

Date of dictation	8.09.2021
Date on which the typed draft is placed before the dictating member	8.09.2021
Date on which the typed draft is placed before the other member	8.09.2021
Date on which the approved draft comes to the Sr. PS/ PS	8.09.2021
Date on which the fair order is placed before the dictating member for pronouncement	8.09.2021
Date on which the fair order comes back to the Sr. PS/ PS	8.09.2021
Date on which the final order is uploaded on the website of ITAT	8.09.2021
date on which the file goes to the Bench Clerk	8.09.2021
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	