

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G', NEW DELHI**

Before Sh. Kul Bharat, Judicial Member

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

(Through Video Conferencing)

ITA No. 4016/Del/2017 : Asstt. Year : 2008-09

True Blue Finlease Ltd., 527B, 5 th Floor, HBN Officer, D-Mall, Plot-D, Distt. Centre, Paschim Vihar, New Delhi-110087	Vs	DCIT, Central Circle-29, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAAC4280C		

Assessee by : Ms. Gunjan Jain, CA

Revenue by : Sh. H. K. Choudhary, CIT DR

Date of Hearing: 26.07.2021

Date of Pronouncement: 23.09.2021
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ORDER

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

The present appeal has been filed by the assessee against the order of Id. CIT (A)-30, New Delhi dated 22.03.2017.

2. Following additional grounds have been raised by the assessee:

"1. Under the facts and the circumstances of the case, the order of penalty passed under section 271(1)(c) of the Act is bad in law as the notice issued under section 274 read with section 271 of the Act is not discernable as to whether the penalty proceedings is initiated for furnishing of inaccurate particulars of income or concealment of income and therefore, the impugned penalty order deserves to be cancelled."

3. Keeping in view the legal issue involved, the additional grounds are here by admitted.

4. At the outset, the Ld. AR argued that the notice issued was bad in law and *void ab initio* as the notice *prima facie* did not satisfy the condition as to which limb of section 271(1)(c) the penalty has been levied either concealed income or furnished inaccurate particulars of income. It was argued that that it is elementary that for assuming valid jurisdiction to impose penalty, the assessing officer must, first be satisfied, though *prima facie*, that the assessee has either "concealed income" or furnished "inaccurate particulars of income" and on the basis of such satisfaction a show cause notice has to be issued under section 274 of the Act to the assessee specifying the addition/disallowance in respect of which penalty is sought to be imposed and also the precise charge/ ground on which penalty is proposed to be imposed thereon. It was argued that notice issued under section 274 should specifically state the grounds mentioned in section 271(1)(c), i.e., whether it is for 'concealment of income' or for 'furnishing of incorrect particulars of income'. Sending printed form, where both the grounds mentioned in section 271 of the Act are mentioned, does not satisfy requirement of law.

5. Ld. DR argued that the assessed was well aware of the reason of levy of penalty and has indeed replied to the show cause notice.

6. We have gone through the penalty notice issued by the Assessing Officer and find that the penalty notice does not specify whether the penalty was proposed for concealment of

particulars of income or for furnishing inaccurate particulars of such income in terms of provisions of Section 271(1)(c).

7. The Karnataka High Court in the case of 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.

8. The 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.

9. 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]

10. In the present case, too, in notice dated 29.12.2006 and on 23.12.2011 issued under section 274 read with section 271 of the Act, initiated penalty against the appellant for alleged 'concealment of income or furnishing of inaccurate particulars of such income', that is to say, the specific default was not specified by the assessing officer in the notice issued.

11. Hence, respectfully following the order of the Jurisdictional High Court, since the notice u/s 274 has not been specified 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.

12. In the result, the appeal of the assessee is allowed.
Order Pronounced in the Open Court on 23/09/2021.

Sd/-

(Kul Bharat)
Judicial Member

Dated: 23/09/2021

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

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

ASSISTANT REGISTRAR