

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F' NEW DLEHI**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No.6049 & 6050/Del/2018
Assessment Year: 2014-15 & 2015-16**

Vaidic Shiksha Samiti,
Chindalia Nangal Katha,
Narnaul (Haryana)

vs.

Addl.CIT, Range-2,
Chandigarh.

PAN : AAACM7069C
(Appellant)

(Respondent)

Appellant by : Sh. Dharampal,
Respondent by: Sh. Govind Singhal, Sr. DR

Date of hearing: 30/09/2021

Date of order : 30/09/2021

ORDER

PER K. NARASIMHA CHARY, J.M.

Aggrieved by the orders dated 27/6/2018 and 28/6/2018 passed by the learned Commissioner of Income Tax (Appeals), Rohtak ("Ld. CIT(A)") in the cases of Vaidic Siksha Samiti, Narnaul, Haryana ("the assessee") for the assessment year 2014-15 and 2015-16 respectively, assessee preferred these two appeals.

2. Brief facts of the case are that the assessee is a society imparting education. According to them the receipts for the assessment year 2014-15 and 2015-16 were less than Rupees one crore and the income of the society was exempt under section 10

(23C) (iiiad) of the Income Tax Act, 1961 (for short “the Act”) and after claiming exemption thereunder, the income of the assessee was nil, and therefore, the assessee was under the impression that it was not obligated for them to file the return of income and therefore they did not file the return in time. Subsequently when they came to know of the legal requirement, they filed their returns of income and the income of the assessee was determined under section 143(3) of the Act. Learned Assessing Officer, however, observing that the assessee failed to fulfil the responsibility to file a return in time as per the requirement of section 139 (4A)/(4C) of the Act, levied penalty of Rs. 51,600/-and Rs. 18,300/- for these 2 years respectively.

3. Aggrieved by such levy of penalty, assessee preferred appeals before the Ld. CIT(A) and the Ld. CIT(A) upheld the penalty on the ground that there was no reasonable cause which prevented the assessee from performing their statutory obligation of filing the return of income in time and therefore, penalty was properly levied.

4. Assessee is therefore before us contending that inasmuch as the receipts of the assessee for both the years are less than one crore of rupees, the assessee was under the *bona fide* impression that they did not mandate really to file the return of income and the moment they come to know of their legal obligation, the return of income was filed and was properly processed. According to the assessee, this constitutes a sufficient cause because the assessee

does not stand to gain by not filing the return of income. Reliance is placed on the decision of the Raipur Bench of the Tribunal in the case of Sheetal Anusandhan vs. JCIT in ITA No. 146 and 147/RPR/2014 in which the decisions of the Hon'ble Delhi High Court in the case of Azadi Bachao Andolan, 252 ITR 471 and the decision of the Hon'ble Supreme Court in the case of Hindustan Steel Ltd vs. the state of Orissa 83 ITR 26 were followed. Further it is submitted that the Ld. CIT(A) in the case of M/s Bhagwan Parshuram Siksha Samiti in appeal No. 169/2012-13 by order dated 21/8/2018 accepted the very same cause and deleted the penalty. Ld. DR place heavy reliance on the orders of the authorities below.

5. We have gone through the record in the light of the submissions made on either side. According to the assessee, the total receipts for the assessment years 2014-15 and 2015-16 were less than Rupees one crore and therefore, the society was exempt under section 10 (23C) (iiiad) of the Act; that after claiming exemption under section 10 (23C) (iiiad) of the Act, the income of the assessee was nil; and in the circumstances the *bona fide* belief of the assessee was that they need not to file the return of income.

6. On a perusal of the order dated 21/8/2018 in appeal No. 169/2012-13, Ld. CIT(A) accepted this very reason constituting sufficient cause and deleted the penalty in the identical facts in the case of Seetal Anusandhan (supra) and by order dated 15/1/2018, the Raipur Bench of the Tribunal held that, in the absence of any

attributable motive to stand to gain, the *bona fide* belief constitutes sufficient cause. We feel it relevant to extract the observations of the Tribunal, which run as follows: –

“4. We have heard the rival submissions, perused the orders of lower authorities and materials available on record. Penalty may be imposed under section 272A(2)(e) for failure to furnish the return of income in accordance with the provisions of section 139(4A) rws 139(1) of the Act. In the present case, there was no deliberateness in not filing the return of income within the prescribed time limit. The assessee society was under a bonafide belief that since the income of the society is exempt, it is not required to file income tax return. However, when it came to the knowledge of the assessee society that it is required to file income tax return, immediately, the society filed the same. Penalty cannot be levied under section 272A(2)(e) if there exists sufficient or reasonable cause for the default. The meaning of the term "reasonable cause" as enunciated by the Hon'ble Delhi High Court in the case of *Azadi Bachao Andolan v Union of India* 252 ITR 471 reads as follows:-

"Reasonable cause can be reasonably said to be a cause which prevents a man of average intelligence and ordinary prudence, acting under normal circumstances, without negligence or inaction or want of bona fides".

5. The Hon'ble Supreme Court in the case of *Hindustan Steel Ltd. v The State of Orissa* (83 ITR 26) held as follows:-

"An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi-criminal proceeding, and penalty will not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard to its obligation. Penalty will not also be imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty when there is a technical or venial breach of the provision of the Act or where the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed by the statute".

6. In the present case, the assessee was under a bonafide impression/belief for not filing the return of income. The assessee did not act dishonestly or negligently. The delay in filing the return was due to a reasonable and genuine cause. It is also not a case that the assessee did not file a return of income at all. As a result of late filing of the returns, there was no loss of revenue to the Government. The assessee had no ulterior motive to defraud the revenue and had not acted dishonestly or negligently. Therefore, there was sufficient/ reasonable cause for the delay in furnishing the return of income.

7. In view of the above, we are of the view that the assessee society is not liable for penalty under section 272A(2)(e) of the Act for delay in filing the returns of income. Therefore, we cancel the penalty imposed by the Assessing Officer for both the years under consideration.”

7. Since the facts are similar in both in the case of Sheetal Anusandhan (supra) and also M/s Bhagwan Parshuram (supra), we are of the opinion that a similar view could be followed in this matter also, because no compelling circumstances are brought to our notice to take a different view. We accordingly, accept the explanation of the assessee as constituting sufficient cause and hold that the penalty cannot be sustained. Penalty is accordingly, directed to be deleted.

8. In the result, appeals of the assessee are allowed.

Pronounced in open court on this the 30th day of September, 2021 immediately on conclusion of hearing over virtual mode.

Sd/-

(ANIL CHATURVEDI)
ACCOUNTANT MEMBER

Sd/-

(K. NARSIMHA CHARY)
JUDICIAL MEMBER

Dated: 30/09/2021

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