

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

Before Sh. Amit Shukla, Judicial Member

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

ITA No. 6105/Del/2018 : Asstt. Year : 2010-11

Ayursidhha Inc., V-17/18, DLF Phase-III, Gurgaon, Haryana	Vs	Income Tax Officer, Ward-1(2), Gurgoan
(APPELLANT)		(RESPONDENT)
PAN No. AAMFA9665K		

Assessee by : Sh. Tarun Tulsani, CA

Revenue by : Sh. Sanjay Tripathi, Sr. DR

Date of Hearing: 21.10.2021

Date of Pronouncement: 21.10.2021
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ORDER

Per Amit Shukla, Judicial Member:

The present appeal has been filed by the assessee against the order of the Id. CIT(A)-2, Gurgaon dated 24.11.2017.

3. The Assessing Officer made addition of Rs.6,83,000/- to the total income on account of the unsecured loans received during the F.Y. 2009-10. Consequent to the addition, penalty u/s 271(1)(c) has been levied by the AO.

4. We find that the page no. 7 below para 8.1, the Assessing Officer has also mentioned "*t penalty proceedings u/s 271(1)(c) are initiated simultaneously for concealing true particulars of income and furnishing inaccurate particulars of such income.*"

5. We also find that the para no. 7 of the penalty order reads as under:

"6. It is held that the assessee has concealed the particulars of his income/furnished inaccurate particulars of his income."

6. We have also gone through the notice u/s 274 r.w.s. 271 of the Income Tax Act, 1961 issued by the Assessing Officer on 31.03.2013. We find that the Assessing Officer has issued the penalty order stating that, *you *have concealed the particulars of your income by furnishing inaccurate particulars of such income."*

7. On this issue, we are guided by the following judgments:

- 1) Karnataka High Court: 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.
- 2) Bombay High Court: Mr. Mohd. Farhan A. Shaikh Vs ACIT Section 271(1)(c): Penalty-Concealment-Non-striking off of the irrelevant part while issuing notice u/s 271(1)(c) of the Income Tax Act, order is bad in law. Assessee must be informed of the ground of the penalty proceedings only through statutory notice. An omnibus notice suffers from the vice of vagueness.
- 3) The Hon'ble 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.

- 4) 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]

8. Hence, respectfully following the order of the Hon'ble Jurisdictional High Court, since the AO has not been specified u/s 274 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.

9. In the result, the appeal of the assessee is allowed.
Order Pronounced in the Open Court on 21/10/2021.

Sd/-

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

Sd/-

(Amit Shukla)
Judicial Member

Dated: 21/10/2021

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR