

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

आयकर अपील सं. / ITA No. 1795/PUN/2018
निर्धारण वर्ष / Assessment Year : 2014-15

Kavita Balraj Lanjile
Prayag Bungalow, Muktai Nagar,
Behind Yallale Hospital,
Ambejogai Road,
At & Post- Latur
Pin-413 512
PAN : AAQPL5138C

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward-1(2), Pune.

.....प्रत्यर्थी / Respondent

Assessee by : None
Revenue by : Shri S.P Walimbe

सुनवाई की तारीख / Date of Hearing : 02.11.2021
घोषणा की तारीख / Date of Pronouncement : 02.11.2021

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM:

This appeal preferred by the assessee emanates from the order of the Ld. CIT(Appeals)-1, Pune dated 21.09.2018 for the assessment year 2014-15 as per the grounds of appeal on record.

2. In this case, none appeared on behalf of the assessee. The submissions of the Ld. DR were recorded and the case was heard on merits. That on

perusal of the Ld. CIT(Appeals)'s order, we find that even before the First Appellate Authority, the assessee did not appear either personally or through any Authorized Representative and the same is the case before us.

3. The issue raised in this appeal is with regard to penalty levied u/s.271(1)(c) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). The Ld. CIT(Appeals) vide Para 4 of her order provided reasonable opportunity of hearing to the assessee. However, there were no compliances made as regards those hearing notices by the assessee.

4. The facts of the case are that the assessee is an Advocate and filed its return of income for the assessment year 2014-15 on 17.07.2014 declaring total income at Rs.3,85,124/-. The assessment order u/s. 143(3) of the Act was completed at total income of Rs.12,53,720/- and the penalty proceedings u/s.271(1)(c) of the Act were initiated and the penalty order was passed on 25.01.2017 levying penalty of Rs.1,68,657/-.

5. It is the case of the Department that the Assessing Officer observed that the assessee has received remuneration and interest which has led to substantial increase in the capital of the assessee. The assessee is also a partner in a partnership concern namely M/s. Balaji Green Valley. However, these amounts of remuneration and interest received from partnership concern were not disclosed by the assessee in the return of income. That on being confronted, the assessee had filed revised return of income on 30.06.2016 including the said amounts and offered them to tax. The Assessing Officer had made addition without accepting revised return as it was filed beyond the statutory time limit and initiated proceedings u/s.271(1)(c) of the Act for concealment of income.

6. During penalty proceedings, the assessee explained that at the time of finalizing the firm's account, inadvertently, the interest and remuneration paid by the firm to the assessee was not included in the original return which was later offered in the revised return of income. This contention of the assessee was not accepted by the Assessing Officer and penalty of Rs.1,68,657/- u/s.271(1)(c) of the Act was accordingly imposed on the assessee. That vide Para 5.3 and 5.4 of the Ld. CIT(Appeal)'s order, it is evident that the Assessing Officer has brought out clearly the facts on record for imposing penalty. The Ld. CIT(Appeals) opined that since there was no representation by the assessee nor any written submissions filed in this regard, therefore, the assessee must be having some mala-fide intentions. Hence, penalty levied u/s.271(1)(c) of the Act was confirmed by the Ld. CIT(Appeals) in her order.

7. That taking the totality of facts and circumstances, we are of the considered view that it is a correct and undisputed fact that in the original return of income, the assessee who is also earning remuneration from partnership firm and had also earned interest, these incomes were not shown in that return. However, the assessee did file revised return of income wherein these left out incomes were included and had offered them to tax. However, since the return was filed beyond the statutory time limit, the said return was not accepted by the Department. We also notice that the assessee neither appeared before the Ld. CIT(Appeals) nor before us either in person or through any Authorized Representative in spite of being given reasonable opportunity of hearing. We take strong note of this attitude of the assessee evading the process of law for which reason, we impose a cost of Rs.1000/- (one thousand only) on the assessee as per Rule 32A of the Income Tax (Appellate Tribunal) Rules, 1963 and we direct the assessee to pay the said

amount in the Indian Army Welfare Fund account. We are imposing this nominal cost on the assessee conveying a clear message that if any assessee is initiating any proceedings under law, he should also strive to take that proceedings to a logical end and should pursue so to assist in the due process of law.

8. We also appreciate the fact that the assessee had filed revised return of income wherein she has disclosed those incomes which were earlier left out. However, it is another issue that such revised return was not considered valid since it was filed beyond the statutory time limit. The point to be noted is that the assessee tried to pay taxes to the Revenue through this revised return of income. Thus, any mala-fide intentions on the part of the assessee is ruled out. The conduct of the assessee shows that she never intended to cause any loss to the revenue. Taking the totality of facts and circumstances, we are of the considered view that one more opportunity should be provided to the assessee and therefore, we set aside the order of the Ld. CIT(Appeals) and remand the matter back to her file for re-adjudication as per law while complying with the principles of natural justice. At the same time, we direct the assessee to present herself for the proceedings before the Ld. CIT(Appeals) with requisite details/evidences to represent her case on merits.

9. In the result, **appeal of the assessee is allowed for statistical purposes.**

Order pronounced in open Court on 02nd day of November, 2021.

Sd/-
INTURI RAMA RAO
ACCOUNTANT MEMBER

Sd/-
PARTHA SARATHI CHAUDHURY
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 02nd November, 2021

SB

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Pune.
4. The Pr. CIT-1, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

		Date	
1	Draft dictated on	02.11.2021	Sr.PS/PS
2	Draft placed before author	02.11.2021	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		