

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

Before Sh. Kul Bharat, Judicial Member

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

(Through Video Conferencing)

ITA No. 6590/Del/2015 : Asstt. Year : 2005-06

M/s Oriental Insurance Co. Ltd., A-25/27, Asaf Ali Road, New Delhi-110002	Vs	DCIT, Circle-LTU, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAAC0627R		

ITA No. 24/Del/2016 : Asstt. Year : 2005-06

DCIT, Circle-1, LTU, New Delhi	Vs	M/s Oriental Insurance Co. Ltd., A-25/27, Asaf Ali Road, New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. AAAC0627R		

Assessee by : Sh. Tarandeep Singh, CA

Revenue by : Ms. Deep Shikha Sharma, CIT DR

Date of Hearing: 25.08.2021	Date of Pronouncement: 03.11.2021
------------------------------------	--

ORDER

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

The present appeals have been filed by the assessee and the Revenue against the orders of Id. CIT(A)-22, New Delhi dated 20.10.2015.

2. The notice u/s 274 r.w.s. 271 of the Income Tax Act, 1961 issued by the Revenue is as under:

60⁹⁵

NOTICE UNDER SECTION 274 READ WITH SECTION 271 OF THE INCOME TAX ACT, 1961.

Office of the
Addl. Commissioner of Income tax,
Range-16, New Delhi

Dated:- 3/12/2013.

To,
M/s. The Oriental Insurance Co. Ltd.,
A-25/22 Asaf Ali Road,
New Delhi

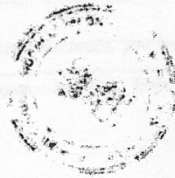
Whereas in the course of proceeding before me for the assessment year..... it appears to me that you:-

*have without reasonable cause failed to comply with a notice under section 142(1)/143(2) of the Income Tax Act, 1961 dated.....

*have concealed the particulars of your income or furnished inaccurate particulars of such income in terms of explanation 1, 2, 3, 4 and 5.

You are hereby requested to appear before me... 11.30 AM/PM on... 9/11/2013 and show cause why an order imposing a penalty on you should not be made under section 271 of the Income Tax Act, 1961. If you do not wish to avail yourself of this opportunity of being heard in person or through authorized representative you may show cause in writing on or before the said date which will be considered before any such order is made under section 271.(c)(c)

SEAL



Blank lined area for signature or stamp.

3. We have 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.*"

4. 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]

5. 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.

6. In the result, the appeal of the assessee is allowed and that of the Revenue is dismissed.

Order Pronounced in the Open Court on 03/11/2021.

Sd/-

(Kul Bharat)
Judicial Member

Dated: 03/11/2021

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