

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI
श्री वी.दुर्गा राव, न्यायिक सदस्य एवं श्री जी.मंजुनाथ, लेखा सदस्य के समक्ष
BEFORE SHRI V.DURGA RAO, JUDICIAL MEMBER
AND SHRI G.MANJUNATHA, ACCOUNTANT MEMBER

आयकरअपीलसं./I.T.A.No.3327/Chny/2019

(निर्धारणवर्ष / Assessment Year: 2012-13)

The Assistant Commissioner of Income Tax, Non-Corporate Circle -7(1) Chennai-34.	Vs	Mr. S.Moorthy 25, Muthumariamman Koil Street, Navalur Nagar, Anna Nagar West, Chennai-600 040.
PAN: AFBPM 7143Q		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr.D. Anand, Advocate
प्रत्यर्थीकीओरसे/Respondent by	:	Mr. AR.V.Sreenivasan, Addl.CIT

सुनवाईकीतारीख/Date of hearing	:	15.11.2021
घोषणाकीतारीख /Date of Pronouncement	:	15.11.2021

आदेश / ORDER

PER G.MANJUNATHA, AM:

This appeal filed by the Revenue is directed against the order of the learned CIT(A)-7, Chennai, dated 27.09.2019 and pertains to assessment year 2012-13.

2. The Revenue has raised following grounds of appeal:-

"The Order of the learned Commissioner of Income Tax (Appeals) is contrary to the Law and facts of the case.

- 1. CIT(A) erred in deleting the penalty levied u/s.271(1)(c) of the IT Act, by holding that penalty is not attracted on estimated additions.*
- 2. CIT(A) relied on his own decision on the quantum appeal of the assessee's own case (vide order in ITA No.93/CIT(A)-7/2019-20 dated 28-08-2019) and deleted the penalty levied on the same without considering the fact that the quantum*

appeal is not yet reached finality which is pending for adjudication before ITAT.

3. *CIT(A) ought to have appreciated the fact that even penalty proceedings also assessee did not furnish the details in support of his claim to prove genuineness of the same."*

3. Brief facts of the case are that assessment for impugned assessment year has been completed u/s.143(3) of the Income Tax Act, 1961. The assessee has challenged assessment order before the Tribunal. The ITAT., Chennai Benches vide its order dated 10.03.2021 in ITA No.3091/Chny/2019 has deleted additions made by the Assessing Officer by upholding order of the learned CIT(A). In the meantime, the Assessing Officer has levied penalty u/s.271(1)(c) of the Income Tax Act, 1961. The assessee has challenged penalty order passed by the Assessing Officer before the CIT(A) and learned CIT(A) vide order dated 27.09.2019 deleted penalty levied by the Assessing Officer by following certain judicial precedents. Aggrieved by the learned CIT(A) order, the Revenue is in appeal before us.

4. We have heard both the parties, perused material available on record and gone through orders of the authorities below. We find that the Tribunal in ITA No.3091/Chny/2019

dated 10.03.2021 has deleted additions made by the Assessing Officer. Once addition, on which penalty has been levied u/s.271(1)(c) of the Act, itself was deleted by the appellate authority, then penalty levied on such addition cannot survive under law. The learned CIT(A), after considering relevant facts has rightly deleted penalty levied by the Assessing Officer u/s.271(1)(c) of the Act. There is no error in the order of learned CIT(A) and hence, we are inclined to uphold findings of learned CIT(A) and dismiss appeal filed by the revenue.

5. In the result, appeal filed by the Revenue for is dismissed.

Order pronounced in the open court on 15th November, 2021

Sd/-

(वी.दुर्गा राव)

(V.Durga Rao)

न्यायिक सदस्य /Judicial Member

Sd/-

(जी. मंजुनाथ)

(G.Manjunatha)

लेखा सदस्य / Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 15th November, 2021

DS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

- | | | |
|--------------------|-------------------------|------------------------------|
| 1. Appellant | 2. Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF. |