

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

Before Sh. Amit Shukla, Judicial Member

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

ITA No. 2552/Del/2018 : Asstt. Year : 2008-09

Rachit Prints Pvt. Ltd., C/o Sh. C. S. Anand, Adv., 104, Pankaj Tower, 10 L.S.C., Savita Vihar, New Delhi-110092	Vs	ACIT, Circle-2, Meerut
(APPELLANT)		(RESPONDENT)
PAN No. AACCR4932R		

Assessee by : Sh. C. S. Anand, Adv.

Revenue by : Ms. Shivani Bansal, Sr. DR

Date of Hearing: 16.09.2021

Date of Pronouncement: 25.11.2021
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ORDER

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

The present appeal has been filed by the assessee against the order of the Id. CIT(A), Meerut dated 29.01.2018.

2. The Assessing Officer made addition of Rs.21,71,854/- to the total income on account of the sundry creditor. Consequent to the addition made, penalty u/s 271(1)(c) has been levied by the AO.

3. At the outset, the Id. AR argued that the notice issued was defective as it did not specify as to which limb of Section 271(1)(c) has been invoked for levy of penalty. The said notice is as under:

I.T.N.S.-29

NOTICE UNDER SECTION 274 READ WITH SECTION 271 OF THE INCOME TAX ACT, 1961
NOTICE UNDER SECTION 271(1) (c) OF THE INCOME TAX ACT, 1961

Office of the
Assistant Commissioner of Income-tax, Cir-2
Room No.212, Aayakar Bhavan
Meerut

Date: 13.03.2014

To
M/s RACHIT PRINTS PVT LTD
B-9,10,11,
UDHYOG NAGAR,
PARTAPUR.

Whereas in the course of proceedings before me for the assessment year **2008-09** it appears to me that you:-

* ~~have without reasonable cause failed to furnish me return of income which you were required to furnish by a notice given under section 22(1)/22(2)/34 of the Indian Income tax Act 1922 or which you were required to furnish under section 139(1) or by a notice given under section 139(2)/148 of the Income tax Act, 1961, No.....dated or have without reasonable cause failed to furnish it within the time allowed and the manner required by the said section 139(1) or by such notice.~~

* ~~have without reasonable cause failed to comply with a notice under section 22(4)/23(2) of the Indian Income tax Act, 1922 or under section 142(1)/143(2) of the income tax Act, 1961.~~

No.....dated.....

* have concealed the particulars of your income orfurnished inaccurate particulars of such income.

You are hereby required to appear before me at 11:30 A.M/P.M. on 15/04/2014 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 authorised representative you may show cause in writing on or before the said date which will be considered before any such order is order is made under section 271.

CmXw

4. 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 13.03.2014. We find that the Assessing Officer has issued the

penalty order stating that, *you *have concealed the particulars of your income or..... furnished inaccurate particulars of such income.*"

5. 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]

6. 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.

7. In the result, the appeal of the assessee is allowed.
Order Pronounced in the Open Court on 25/11/2021.

Sd/-

(Amit Shukla)
Judicial Member

Dated: 25/11/2021

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