

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'G' BENCH,
NEW DELHI (THROUGH VIDEO CONFERENCING]

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI AMIT SHUKLA, JUDICIAL MEMBER

ITA No. 5356/DEL/2018 [A.Y 2006-07]

ITA No. 5357/DEL/2018 [A.Y 2007-08]

ITA No. 5358/DEL/2018 [A.Y 2008-09]

Shri Satish Kumar Chugh [HUF]
Prop. M/s A.D. Textiles
Khasra No. 50-51, Delhi

Vs.

The A.C.I.T
Panipat Circle
Panipat

PAN: AALHS 3143 P
(Applicant)

(Respondent)

Assessee By : Dr. Rakesh Gupta, Adv
Shri Somil Agarwal, Adv

Department By : Shri H.K. Choudhary, CIT-DR

Date of Hearing : 13.12.2021

Date of Pronouncement : 13.12.2021

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-

The above three appeals by the assessee are preferred against the three separate orders of the CIT[A], Karnal dated 06.06.2018 pertaining to Assessment Years 2006-07 to 2008-09 respectively .

2. Since the underlying facts in issues are common in all the captioned three appeals, all the appeals were heard together and are disposed off by this common order for the sake of convenience and brevity.

3. The common grievance in all the captioned appeals relates to the levy of penalty u/s 271(1)(c) of the Income-tax Act, 1961 [hereinafter referred to as 'The Act'] though the quantum may differ in all the captioned appeals.

4. Representative of both the sides were heard at length, case records carefully perused.

5. At the very outset, the ld. counsel for the assessee stated that in the assessment order, the Assessing Officer was not certain whether the assessee has filed inaccurate particulars of income or has concealed particulars of income.

6. The ld. counsel for the assessee drew our attention to the notice issued u/s 274 r.w.s 271 of the Act and pointed out that even in the notice, the Assessing Officer is not clear as to under which limb of the section penalty is imposable. The ld. counsel for the assessee placed

strong reliance on the decision of the Hon'ble High Court of Delhi in the case of Pr. CIT Vs. Sahara India Life Insurance ITA 475 of 2019.

7. Per contra, the ld. DR strongly supported the findings of the Assessing Officer.

8. We have given thoughtful consideration to the orders of the authorities below. The Hon'ble Delhi High Court in case of Pr. CIT vs. Sahara India Life Insurance Company Ltd. (supra) while deciding the identical issue held as under:

"21. The Respondent had challenged the upholding of the penalty imposed under Section 271(1)(c) of the Act, which was accepted by the ITAT. It followed the decision of the Karnataka High Court in CIT v. Manjunatha Cotton & Ginning Factory 359 ITR 565 (Kar) and observed that the notice issued by the AO would be bad in law if it did not specify which limb of Section 271(1) (c) the penalty proceedings had been initiated under i.e. whether for concealment of particulars of income or for furnishing of inaccurate particulars of income. The Karnataka High Court had followed the above judgment in the subsequent order in Commissioner of Income Tax v. SSA's

Emerald Meadows (2016) 73 Taxman.com 241 (Kar) , the appeal against which was dismissed by the Supreme Court of India in SLP No. 11485 of 2016 by order dated 5th August, 2016."

7. Similar view was taken by the Hon'ble High Court of Karnataka in the case of SSA Emerald Meadows ITA No. 380 of 2015. The relevant findings of the judgement read as under:

"Notice issued by the Assessing Officer u/s 274 r.w.s 271(1)(c) of the Act to be bad in law as it did not specify which limb of section 271(1)(c) of the Act the penalty proceedings had been initiated i.e. whether for concealment of particulars of income or furnishing of inaccurate particulars of income. The issue was decided in favour of the assessee."

8. A SLP of the revenue against this judgement of the Hon'ble High Court of Karnataka was dismissed by the Hon'ble Supreme Court in 73 taxmann.com 248.

9. Respectfully following the binding decision of the Hon'ble Jurisdictional High Court of Delhi, we direct the Assessing Officer to delete the penalty levied under section 271(1)(c) of the Act.

9. In the result, all the four appeals of the assessee in ITA Nos.5356, 5357 and 5358/DEL/2018 are allowed.

The order is pronounced in the open court on 13.12.2021 in the presence of both the representatives.

Sd/-

**[AMIT SHUKLA]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 13th December, 2021

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
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Date on which the file goes to the Head Clerk	
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