

आयकर अपीलिय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

(Through Virtual Court)

BEFORE SHRI R.S. SYAL, VICE PRESIDENT
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1150/PUN/2018

निर्धारण वर्ष / Assessment Year : 2014-15

Asstt. Commissioner of Income Tax,
Ahmednagar Circle, Ahmednagar

.....अपीलार्थी / Appellant

बनाम / V/s.

Shri Abhijit Purushottam Pathak,
7528, Swasthya Hospital and
Medical Research Centre,
Annabhau Sathe Chowk,
Lal Taki, Ahmednagar-414001

PAN : ACGPP4509D

.....प्रत्यर्थी / Respondent

Assessee by : N O N E
Revenue by : Shri S.P. Walimbe

सुनवाई की तारीख / Date of Hearing : 19-01-2022

घोषणा की तारीख / Date of Pronouncement : 20-01-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the Revenue against the order dated 28-03-2018 passed by the Commissioner of Income Tax (Appeals)-2, Pune [‘CIT(A)’] for assessment year 2014-15.

2. We find no representation on behalf of the assessee nor any application filed seeking adjournment. Thus, the assessee called absent and set ex-parte. Therefore, we proceed to dispose of the appeal by hearing the ld. DR and perusing the material available on record.

3. The only issue is to be decided is as to whether the CIT(A) is justified in deleting the penalty imposed by the AO u/s. 271(1)(c) of the Act in the facts and circumstances of the case.

4. Heard ld. DR and perused the material available on record. We note that the assessee is an individual and a doctor by profession. Originally the assessee filed return of income declaring a total income at Rs.3,27,47,940/- on 28-11-2014. Thereafter, a survey was conducted u/s. 133A of the Act on 15-01-2015. In the said survey, the assessee stated to have been admitted additional income of Rs.1,50,08,745/-. In view of the same he filed revised return of income on 09-02-2015 by declaring the said additional income in the revised return of income showing total income at Rs.4,78,38,685/- (Rs.3,27,47,940/- + Rs.1,50,08,745/-). The AO accepted the said revised return of income determining the total income at Rs.4,78,38,685/- without any disallowance thereon. The AO also initiated penalty proceedings u/s. 271(1)(c) of the Act for concealment of income and levied penalty of Rs.51,01,472/- being minimum penalty @ 100%. The CIT(A) by placing reliance of the orders of ITAT Bangalore Bench in the case of Vasavi Shelters Vs. ITO reported in 141 ITD 590, ITAT Mumbai Bench in the case of Vipul Life Sciences Ltd. Vs. DCIT reported in 68 SOT 321 and also decision of Hon'ble High Court of Madras in the case of CIT Vs. S.S.M. Ahmed Hussain reported in 85 taxmann.com 351 (Mad.) on identical issues vide Para Nos. 5.2, 5.3 and 5.4, respectively in the impugned order held when assessment is completed on the basis of income

declared which is inclusive of additional income declared in the course of survey without making any addition thereon, the penalty u/s. 271(1)(c) of the Act for concealment of income is not warranted. The ld. DR did not dispute that the AO completed assessment on the basis of return of income which is inclusive of the additional income said to have been offered to tax during the course of survey u/s. 133A of the Act. Therefore, we do not find any infirmity in the order of CIT(A) and it is justified. Thus, the grounds raised by the Revenue are dismissed.

5. In the result, the appeal of Revenue is dismissed.

Order pronounced in the open court on 20th January, 2022.

Sd/-
(R.S. Syal)
VICE PRESIDENT

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 20th January, 2022.

रवि

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

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

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

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