

आयकर अपीलीय 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.1047/PUN/2018

निर्धारण वर्ष / Assessment Year : 2013-14

Dy. Commissioner of Income Tax,
Circle – 3, Pune

.....अपीलार्थी / Appellant

बनाम / V/s.

M/s. Gokhale Joshi Associates,
2, Nirmitti Eminence,
1175/1, Erandwana,
Pune – 411004

PAN : AAJFG2263Q

.....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 22-03-2018 passed by the Commissioner of Income Tax (Appeals)-3, Pune [‘CIT(A)'] for assessment year 2013-14.

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 Revenue raised three grounds of appeal amongst which 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 a firm engaged in the construction business as promoters and builders. A survey was conducted u/s. 133A of the Act in assessee's group on 11-10-2012. The assessee offered Rs.1,94,00,000/- as unaccounted money and disclosed the said income by adding it to the regular income. Accordingly, the assessee filed return of income declaring a total income of Rs.2,56,00,000/-. The AO completed the assessment u/s. 143(3) of the Act accepting the same. At the same time, the AO initiated penalty proceedings u/s. 271(1)(c) of the Act under the charge of concealment of income and imposed penalty of Rs.59,94,600/- in respect of the amount which was admitted during the course of survey. The CIT(A) vide Para No. 3.4 of the impugned order held when return of income including the admitted unaccounted additional income accepted by the AO, no penalty lies. It is a settled principle when the AO accepts return of income making no addition, no penalty lies in such circumstances. We find the CIT(A) by placing reliance on judicial pronouncements rightly cancelled the penalty imposed by the AO u/s. 271(1)(c) 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)-3, Pune
4. The Pr. CIT-2, 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