

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT**

(THROUGH VIRTUAL COURT)

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER &
Ms. MADHUMITA ROY, JUDICIAL MEMBER**

I.T.A. No.35/Rjt/2017
(Assessment Year: 2012-13)

Rajkot District Cooperative Milk Producers' Union Ltd. Managing Director, Rajkot Dist Coop Milk Pro U Ltd., (Rajkot Dairy) Dudhsagar Marg, Rajkot-360003	Vs.	The Commissioner of Income Tax (Appeals)-2, Second Floor, Amruta Estate, Near Girnar Cinema, Rajkot-360001
[PAN No. AAAAR3262Q]		
(Appellant)	..	(Respondent)

Appellant by :	Shri J. R. Mankodi, AR.
Respondent by :	Shri Vidyasagar S. Ubale, Sr. D.R.

Date of Hearing	08/02/2022
Date of Pronouncement	21/02/2022

ORDER

PER Ms. MADHUMITA ROY - JM:

The instant appeal filed by the assessee is directed against the order dated 03.11.2016 passed by the Commissioner of Income Tax (Appeals)-2, Rajkot arising out of the penalty order dated 07.08.2015 passed by the ACIT, Circle – 2(1), Rajkot under Section 271(1)(c) of the Income Tax Act, 1961 (hereinafter referred as to “the Act”) for the Assessment Year (A.Y.) 2012-13.

2. The matter relates to penalty imposed under Section 271(1)(c) of the Act for concealment of interest income of the assessee to the tune of Rs. 80,945/-.

3. We have heard the rival submissions made by the respective parties, and also perused the relevant materials available on record.

4. The interest amounting to Rs. 2,61,960/- was added to the total income of the assessee which was accrued on FDRs with the ICICI Bank while finalizing the assessment proceeding. The said interest income remained to be accounted in the year under consideration and the same could not be declared in the interest account since the bank had not communicated about accrued interest due as the case made out by the assessee. Since the assessee was following the mercantile system of accounting the assessee did not challenge such addition before the higher forum.

On the other hand, while finalizing assessment the penalty proceeding under Section 271(1)(c) was initiated by issuance of notice dated 13.02.2015 which was ultimately culminated into levying of penalty of Rs. 80,945/- under Section 271(1)(c) of the Act for concealment of interest income of the assessee.

5. It is an established fact that the assessee already disclosed the FDRs lying with the ICICI Bank and since the mercantile system of accounting is being followed by the assessee the assessee was unable to disclose in the return of income for non-communication of accrued interest due by the bank.

6. Under this circumstances, the case sought to be made out by the Revenue for concealment of interest income has no legs to stand upon. On this premise the further argument of the Revenue that had there been no scrutiny assessment, this particular interest income as revealed from the records and addition made thereon would not have been done rather the assessee would have simply evaded the tax is also not tenable.

Therefore, we do not find any concealment of income by the assessee which can lead to initiation of the penalty proceeding by the Ld. AO culminating into an order levying impugned penalty. In the absence of any merit we hereby quash the penalty proceeding. Hence, assessee's appeal is, therefore, allowed.

7. In the result, the appeal preferred by the assessee is allowed.

This Order pronounced in Open Court on

21/02/2022

Sd/-

(WASEEM AHMED)

ACCOUNTANT MEMBER

Ahmedabad; Dated 21/02/2022

TANMAY, Sr.PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A).
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Rajkot
6. गार्ड फाईल / Guard file.

Sd/-

(Ms. MADHUMITA ROY)

JUDICIAL MEMBER

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asst.Registrar)
आयकर अपीलीय अधिकरण, राजकोट / ITAT, Rajkot