

**IN THE INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "SMC": NEW DELHI]**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER,
AS S.M.C.**

ITA. No. 9843/Del/2019
(Assessment Year: 2014-15)

Shri Puneet Kulthia, 54, 1 st Floor, North Ex., Model Town, Delhi – 110 009. PAN: AMGPK3119E	Vs.	DCIT, Central Circle : 14, New Delhi.
(Appellant)		(Respondent)

Assessee by :	Shri Nipun Mittal, C.A.; & Amit Goel, C. A.;
Department by :	Shri Om Prakash, Sr.D. R;
Date of Hearing :	05/05/2022
Date of pronouncement :	11/05/2022

ORDER

PER CHANDRA MOHAN GARG, J. M. :

The aforesaid appeal has been filed by the assessee against the impugned order dated 21.11.2019, passed by the Id. Commissioner of Income Tax (Appeals)-XXXVI, New Delhi, [hereinafter referred to as CIT (Appeals)] under Section

271(1)(c) of the Income Tax Act, 1961 (the Act) for the assessment year 2014–15.

2. The assessee has challenged penalty imposed under Section 271(1)(c) of the Act on the strength of recent judgement of Hon'ble Delhi High Court in the case of Pr. CIT Vs. M/s. Sahara India Life Insurance Company Ltd. 2019 (8) TMI 409 (Del).

3. The ld. AR drew our attention towards copy of the notice under Section 274 read with Section 271(1)(c) of the Act dated 30.12.2016 and submitted that the Assessing Officer has not struck down the irrelevant allegation in the notice itself and he has made both the allegations and grounds in the penalty notice i.e. the assessee has concealed particulars of income as well as has also furnished inaccurate particulars of income. The ld. AR further pointed out that in para No. 14 of the assessment order dated 30.12.2016 the Assessing Officer alleged that the assessee has concealed particulars of his income whereas in the penalty order dated 31.03.2019 under Section 271(1)(c) of the Act in the concluding para 4 it has imposed impugned penalty by alleging that the penalty is being imposed for furnishing of inaccurate particulars of income. Therefore, in view of defective penalty notice and various judgements including the judgement of Hon'ble Delhi High Court in the case of Pr. CIT Vs. M/s. Sahara India Life

Insurance Company Ltd. (supra) the penalty may kindly be cancelled.

4. Replying to the above the ld. Sr. DR strongly supported the penalty as well as the first appellate order.

5. On careful consideration of the rival submissions, I am of the considered opinion that in para Nos. 21 and 22, their Lordships speaking for Hon'ble High Court of Delhi, in the identically and similar situation held thus:-

“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.**

22. On this issue again this Court is unable to find any error having been committed by the ITAT. No substantial question of law arises. “

6. Therefore, facts and circumstances of the present case are quite similar and it is also notable that in the assessment order the Assessing Officer alleges allegation of concealment of

particulars of income whereas penalty has been imposed on the allegation of furnishing of inaccurate particulars of income and in the notice the Assessing Officer has not struck down / struck off irrelevant allegation and has made both the allegations simultaneously. Therefore, the issue is covered in favour of the assessee by the judgement of Hon'ble jurisdictional High Court of Delhi in the case of Pr. CIT Vs. M/s. Sahara India Life Insurance Company Ltd. (supra). Respectfully following the same penalty imposed by the Assessing Officer and confirmed by the Id. CIT (Appeals) is cancelled and the Assessing Officer is directed to delete the penalty.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on : 11/05/2022.

Sd/-
(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

Dated : 11/05/2022.

MEHTA

Copy forwarded to :

1. Appellant;
2. Respondent

ITA. No. 9843/Del/2019

3. CIT
4. CIT (Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

Date of dictation	10.05.2022
Date on which the typed draft is placed before the dictating member	10.05.2022
Date on which the typed draft is placed before the other member	11.05.2022
Date on which the approved draft comes to the Sr. PS/ PS	11.05.2022
Date on which the fair order is placed before the dictating member for pronouncement	11.05.2022
Date on which the fair order comes back to the Sr. PS/ PS	11.05.2022
Date on which the final order is uploaded on the website of ITAT	11.05.2022
date on which the file goes to the Bench Clerk	11.05.2022
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	