

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.961/PUN/2019
निर्धारण वर्ष / Assessment Year: 2012-13

Clean Science & Technology Pvt. Ltd., Shubham, New Nagar Road Vidyanagar, Tal- Sangamner, Ahmednagar-422605. PAN : AAICS9799L	Vs.	CIT (Appeals)-2, Pune.
Appellant		Respondent

Assessee by : Shri Pramod S. Shingte
Revenue by : Shri S. P. Walimbe

Date of hearing : 26.05.2022
Date of pronouncement : 27.05.2022

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of Id. Commissioner of Income Tax (Appeals)- 2, Pune ['CIT(A)' for short] dated 29.04.2019 for the assessment year 2012-13.

2. Briefly, the facts of the case are that the appellant is a company incorporated under the provisions of the Companies Act, 1956. It is engaged in the business of manufacture and sale of

chemicals. The return of income for the assessment year 2012-13 was filed on 24.09.2012 declaring total income of Rs.2,08,86,861/-. Against the said return of income, the assessment was completed by the Dy. Commissioner of Income Tax, Ahmednagar Circle, Ahmednagar ('the Assessing Officer') vide order dated 16.03.2015 passed u/s 143(3) of the Income Tax Act, 1961 ('the Act') at a total income of Rs.2,13,79,180/- after making disallowance of Rs.3,66,172/- on account of group gratuity payment and disallowance of Rs.1,26,142/- on account of prior period expenses.

The Assessing Officer also initiated penalty proceedings u/s 271(1)(c) by issuing show-cause notice u/s 274 of the Act. In response to show-cause notice, the assessee had filed a reply dated 21.03.2013 stating that the addition was based on the admission made during the course of assessment proceedings and it was a mere bona-fide mistake committed by the assessee. There was no deliberate intention to conceal the prior period expenses. However, the Assessing Officer rejected the contention of the assessee that it is a bona-fide mistake on the ground that the assessee itself offered *suo moto* the portion of prior period expenses and levied penalty of Rs.41,000/- u/s 271(1)(c) of the Act vide order dated 27.03.2018

placing reliance on the decision of the Hon'ble Delhi High Court in the case of Zoom Communication Pvt. Ltd., 327 ITR 510 (Del.).

Even on appeal before the ld. CIT(A), the levy of penalty was confirmed by him rejecting the contention of the appellant that the Assessing Officer had failed to record the satisfaction by taking the relevant limb of the show-cause notice.

3. Being aggrieved, the appellant is in appeal before us.
4. The ld. Counsel for the appellant reiterated the same contentions as made before the ld. CIT(A). He placed reliance on the decision of the Hon'ble Supreme Court in the case of Price Waterhouse Coopers (P.) Ltd. vs. CIT, 25 taxmann.com 400 (SC) in support of the proposition that no penalty can be levied in respect of addition which resulted on account of the bona-fide mistakes committed by the assessee. It is further contended that the penalty proceedings initiated by the Assessing Officer are null and void, as the Assessing Officer had failed to record the satisfaction by ticking of the relevant limb of the show-cause notice. Reliance in this regard placed by the ld. AR on the decision of the Hon'ble Bombay High Court in the case of Mohd. Farhan A. Shaikh vs. DCIT, 125 taxmann.com 253 (Bom.).

5. On the other hand, Id. Sr. DR opposing the submissions of the Id. AR submitted that it is a clear case of furnishing the inaccurate particular of income and the assessee itself had agreed the addition only on the query posed by the Assessing Officer during the course of assessment proceedings.

6. We heard the rival submissions and perused the material on record. The issue in the present appeal relates to the levy of penalty u/s 271(1)(c) of the Act. On perusal of the penalty order as well as the assessment order, it would reveal that the penalty was levied for furnishing the inaccurate particulars of income in respect of addition of prior period expenses of Rs.1,26,142/-. It also reveals that the addition was agreed to by the assessee during the course of assessment proceedings on a query posed by the Assessing Officer. However, the Assessing Officer had failed to give a finding as to what kind of particulars filed by the assessee are found to be inaccurate or false. On mere reading of the assessment order, it would clearly show that the addition was made based on the information filed by the assessee. In the circumstances, we are of the considered opinion that it is not a fit case for levy of penalty u/s

271(1)(c) of the Act. Accordingly, we direct the Assessing Officer to delete the penalty of Rs.41,000/- levied u/s 271(1)(c) of the Act.

7. In the result, the appeal filed by the assessee stands allowed.

Order pronounced on this 27th day of May, 2022.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 27th May, 2022.

Sujeet

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, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.