

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B', NEW DELHI**

Before Dr. B. R. R. Kumar, Accountant Member

Sh. Yogesh Kumar US, Judicial Member

ITA No. 894/Del/2015 : Asstt. Year : 2002-03

ITA No. 895/Del/2015 : Asstt. Year : 2003-04

ITA No. 896/Del/2015 : Asstt. Year : 2004-05

Shri Chetan Gupta, 118, Ansal Bhawan, Kasturba Gandhi Marg, New Delhi	Vs	DCIT, Central Circle-12, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AATPG9580E		

Assessee by : Sh. Ashwani Kumar, CA &

Sh. Rahul Chaurasia, CA

Revenue by : Sh. Lalit Kishore, Sr. DR

Date of Hearing: 25.05.2022

Date of Pronouncement: 28.06.2022

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeals have been filed by the assessee against the orders of the Id. CIT(A)-24, New Delhi, dated 22.12.2014.

2. Since, the issues involved in all these appeals are identical, they were heard together and being adjudicated by a common order.

3. The Assessing Officer made addition of Rs.xxxx/- to the total income on account of the unsecured loans received during the F.Y. 2003-04. Consequent to the addition, penalty u/s 271(1)(c) has been levied by the AO.

4. We find that the page no. 10 below para 8.1, the Assessing Officer has also mentioned "*that penalty proceedings u/s 271(1)(c) are being initiated separately.*"

5. We find that the para no. 1 of the penalty order reads as under:

"Penalty proceedings u/s 271(1)(c) of I.T. Act was initiated separately for concealment and failing to furnish true particulars of its income. Show cause notice initiating penalty u/s 271(1)(c) of the Act was issued and send alongwith assessment order on 23.12.2011."

6. We also find that the para no. 11 of the penalty order reads as under:

"I hold the assessee in default in concealing the income of Rs.xxxxx."

7. On this issue, we are guided by the following judgments:

- 1) Karnataka High Court: CIT vs. Manjunatha Cotton and Ginning Factory: 359 ITR 565 held that notice under section 274 should specifically state the grounds mentioned in section 271(1)(c) of the Act, i.e., whether it is for concealment of income or for furnishing of incorrect particulars of income. Sending printed form where all the grounds mentioned in section 271 are mentioned would not satisfy requirement of law.
- 2) Bombay High Court: Mr. Mohd. Farhan A. Shaikh Vs ACIT Section 271(1)(c): Penalty-Concealment-Non-striking off of the irrelevant part while issuing notice u/s 271(1)(c) of the

Income Tax Act, order is bad in law. Assessee must be informed of the ground of the penalty proceedings only through statutory notice. An omnibus notice suffers from the vice of vagueness.

- 3) The Hon'ble jurisdictional Delhi High Court in the case of PCIT vs. Sahara India Life Insurance Co. Ltd. in ITA No. 475 of 2019, reiterated that notice under section 274 should specifically state the grounds on which penalty was sought to be imposed as the assessee should know the grounds which he has to meet specifically.
- 4) The aforesaid principle has been reiterated in the in the case of CIT vs. SSA'S Emerald Meadows: 73 taxmann.com 241 (Kar) [Revenue's SLP dismissed in 242 Taxman 180]

8. Hence, respectfully following the order of the Hon'ble Jurisdictional High Court, the penalty levied is hereby obliterated.

9. In the result, the appeals of the assessee are allowed.
Order Pronounced in the Open Court on 28/06/2022.

Sd/-

(Yogesh Kumar US)
Judicial Member

Dated: 28/06/2022

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR

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Dated: 28/06/2022

Subodh Kumar, Sr. PS

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