

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.204/PUN/2019
निर्धारण वर्ष / Assessment Year : 2005-06

Anand Agnihotri,
1501, Signia Oceans,
Plot 7-8, Sector 10A,
Next to D Mart, Airoli,
Navi Mumbai-400708

PAN : AFLPA6760M

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward – 7(4), Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri C.H. Naniwadekar
Revenue by : Shri S.P. Walimbe

सुनवाई की तारीख / Date of Hearing : 13-07-2022
घोषणा की तारीख / Date of Pronouncement : 14-07-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 19-09-2018 passed by the Commissioner of Income Tax (Appeals)-1, Pune [‘CIT(A)’] for assessment year 2005-06.

2. We find that this appeal was filed with a delay of 03 days. Upon hearing both the parties, we find that the reasons explained by the ld. AR are bonafide which really prevented the assessee to file the appeal in time. Therefore, the delay of 03 days are condoned.

3. The only issue is to be decided is as to whether the CIT(A) justified in confirming the penalty imposed by the AO u/s. 271(1)(c) of the Act in the facts and circumstances of the case.

4. At the outset, we note that the AO received information that the assessee had made payments aggregating to Rs.3,33,337/- through credit cards during the year under consideration. The AO issued notice u/s. 142(1) of the Act calling for the return of income. According to AO as it is emanating from the penalty order dated 27-06-2008, the assessee did not respond to the notice u/s. 142(1) of the Act. Therefore, the AO completed assessment u/s. 144 of the inter alia making addition of Rs.3,33,337/- on account of unexplained expenditure/investment through credit cards. In pursuance of the same, the AO initiated penalty proceedings u/s. 271(1)(c) of the Act for concealment of income and imposed penalty of Rs.75,481/- u/s. 271(1)(c) of the Act. The ld. AR placed on record an order dated 26-07-2011 and submitted that the assessment completed u/s. 144 of the Act was annulled by the CIT(A) and referred to the relevant finding at Page No. 7 of the quantum appeal. The ld. DR did not dispute the same. Therefore, when there is no addition survived on which the penalty imposed and in our opinion, the penalty imposed thereon is not maintainable. Thus,

penalty imposed by the AO as confirmed by the CIT(A) is not justified and it is set aside.

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

Order pronounced in the open court on 14th July, 2022.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 14th July, 2022.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-1, Pune
4. The Pr. CIT-4, 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