

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.1118/PUN/2019
निर्धारण वर्ष / Assessment Year : 2012-13

Ashok Patil,
Flat No. 602, Building B,
S. No. 61/1, 45A Amar Ambience,
Near Sopan Baug, Ghorpadi,
Pune - 411004

PAN : AEZPP6034L

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward - 2(2), Jalgaon

.....प्रत्यर्थी / Respondent

Assessee by : Shri K. Srinivasan
Revenue by : Shri Arvind Desai

सुनवाई की तारीख / Date of Hearing : 31-05-2022
घोषणा की तारीख / Date of Pronouncement : 19-07-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 27-05-2019 passed by the Commissioner of Income Tax (Appeals)-1, Nashik [‘CIT(A)'] for assessment year 2012-13.

2. The assessee raised four grounds of appeal amongst which the only issue emanates for our consideration is as to whether the CIT(A) is justified in confirming the penalty levied u/s. 271(1)(c) of the Act in the facts and circumstances of the case.

3. Heard both the parties and perused the material available on record. The AO in his order passed u/s. 143(3) r.w.s. 147 of the Act made disallowance of expenditure @ 40% out of total expenditure claimed vide Para No. 9 of his order. The CIT(A) confirmed the same. The contention of Id. AR, Shri K. Srinivasan is that the penalty as imposed u/s. 271(1)(c) of the Act is not maintainable on the basis of estimation of expenditure and placed reliance on the decision of ITAT, Lucknow Bench in the case of Pankaj Kumar Gupta in ITA No. 486/LKW/2016 for A.Y. 2012-13. The Id. DR, Shri Arvind Desai placed reliance on the order of CIT(A). Admittedly, the AO disallowed expenditure as claimed by the assessee on estimation basis. The AO disallowed such expenditure on estimation basis for not furnishing supporting claim and it is not safe to conclude that the assessee has deliberately concealed the income or furnished inaccurate particulars of income. The AO did not bring on record to show that there was any malafide intention on the part of the assessee in concealing the income or furnishing in accurate particulars of income and there was omission while filing the return of income. Therefore, in view of the same, levy of penalty in the present case is not warranted and the order of CIT(A) is not justified. Thus, the grounds raised by the assessee are allowed.

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

Order pronounced in the open court on 19th July, 2022.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

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

पुणे / Pune; दिनांक / Dated : 19th 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, Nashik
4. The Pr. CIT-2, Nashik
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