

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No.96/Asr/2021
Assessment Year: 2008-09**

Smt. Harvinder Kaur, W/o S. Parminder Singh, 35, Gopal, Park Kapurthala (Punjab) [PAN: AJZPK1083B] (Appellant)	Vs.	Dy. CIT, Central Circle-1, Jalandhar. (Respondent)
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Appellant by	None.(Written Submission)
Respondent by	Ms. Amanpreet Kaur, Sr.DR

Date of Hearing	27.09.2022
Date of Pronouncement	12.10.2022

ORDER

Per:Anikesh Banerjee, JM:

The instant appeal of the assessee is directed against the order of the Id. Commissioner of Income Tax(Appeals)-5, Ludhiana, [in brevity the CIT(A)] bearing appeal No.10092/CIT(A)-5/Ldh/2020-21, date of order 29.07.2021, the order passed u/s 250(6) of the Income Tax Act 1961, [in brevity the Act] for A.Y. 2008-09.The impugned order was emanated from the order of the Id. Dy.

Commissioner of Income Tax, Central Circle-1, Jalandhar, (in brevity the AO) order passed u/s 271(1)(c) of the Act date of order 12.01.2021.

2. The brief fact of the case is that the assessment was completed u/s 143(3) & the demand was framed. The penalty was initiated and levied u/s 271(1)(c) of the Act related to disallowance of interest on loan amount. The quantum appeal of the assessee was heard before the Hon'ble ITAT bearing appeal **ITA No. 328/Asr/2017** date of order 29.10.2018 was restored the issue of interest on loan and sent back to the Id. AO. The disallowance of interest on loan was actually the disallowance of expenses which was claimed in the P & L account. The penalty order was challenged before the appellate authority. The Id. CIT(A) did not accept the plea of the assessee and upheld the order of the Id. AO.

3. Aggrieved assessee filed an appeal before us.

4. During the appeal hearing, none was present on behalf of the assessee. The matter is taken up with the consent of the Id. Sr. DR for further adjudication.

5. The assessee filed a paper book which is kept in the record.

5.1 The plea of the assessee was that the penalty was levied on the disallowance of expenses which is covered as per the order of the Hon'ble Supreme Court in the case of **CIT vs. Reliance Petro Product P. Ltd.**, **322 ITR 158(SC)**:

“Penalty under s. 271(l)(c)-Concealment-Disallowance of claim for deduction-In order to attract the provisions of s. 271(l)(c), there has to be concealment of income or furnishing of inaccurate particulars of his income by the assessee-In the instant case, assessee claimed deduction of interest on loans taken by it for purchase of shares-AO disallowed such interest-Admittedly, no information given in the return was found to be incorrect or inaccurate-Hence, the assessee cannot be held guilty of furnishing inaccurate particulars-Making an incorrect claim in law cannot tantamount to furnishing of inaccurate particulars-Merely because the assessee claimed deduction which has not been accepted by the Revenue, penalty under s. 271(l)(c) is not attracted-If the contention of the Revenue is accepted, the assessee would be liable for penalty under s. 271(l)(c) in every' case where the claim made by the assessee is not accepted by the AO for any reason-That is clearly not the intendment of the legislature.”

6. The Id. Sr. DR vehemently argued and relied on the order of the revenue authorities.

7. We heard the rival submissions and consider the documents available in the record. The disallowance of the interest was made u/s 143(3). The interest was debited in the P & L account under revenue expenditure. The issue was already

settled by the Apex Court in the order mentioned above. After respectful consideration of the order of Apex court the framing of penalty U/s 271(1)(c) of the Act related disallowance of expenses is beyond jurisdiction. The penalty amount of Rs.27,796/- which was levied- by the Id. AO, is liable to be quashed.

7. In the result, the appeal bearing **ITA No.96/Asr/2021** is allowed.

Order pronounced in the open court on 12.10.2022

Sd/-

(Dr. M. L. Meena)
Accountant Member

Sd/-

(ANIKESH BANERJEE)
Judicial Member

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By Order