

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ **ITA No.2983/Chny/2018**
(निर्धारण वर्ष / **Assessment Year: 2011-12**)

Shri P.S. Jayaraman Old No.20, New No.4, Annaswamy Street, Pallavaram, Chennai – 600 043.	बनाम/ Vs.	ACIT Non Corporate Circle-23(1), Chennai.
स्थायी लेखा सं./जीआइ आर सं./ PAN/GIR No. AACPJ-0796-Q		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri R. Meenakshi Sundaram (Advocate) -Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri ARV Sreenivasan (Addl. CIT) –Ld. DR
सुनवाई की तारीख/ Date of Hearing	:	20-10-2022
घोषणा की तारीख / Date of Pronouncement	:	20-10-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2011-12 arises out of the order of learned Commissioner of Income Tax (Appeals)-10, Chennai [CIT(A)] dated 28-09-2018 confirming levy of penalty u/s. 271(1)(c) by Ld. AO vide order dated 30.05.2017. Though the assessee has raised multiple grounds of appeal, however, in sum and substance the assessee assails the confirmation of penalty on the ground that the claim was a legitimate claim.

2. The Ld. AR submitted that mere making of claim u/s 54EC which was partly accepted do not call for levy of penalty. The Ld. SR. DR, on the other hand, submitted that the claim was not made in accordance with law. Having heard rival submissions, our adjudication would be as under.

3. The assessee was assessed u/s. 143(3) on 27-03-2014. The assessee earned capital gains and claimed exemption u/s. 54F & 54EC of the Act. The exemption u/s. 54EC was claimed for Rs.100 Lacs. The assessee invested into three REC Bonds in respect of three sales. However, Ld. AO held that the land sold was one and therefore, the exemption would be allowable only to the extent of Rs.50 Lacs. The assessee was saddled with other small additions of difference of pension amount and interest on bank account. The order was subjected to appeal before first appellate authority wherein Ld. CIT(A) granted partial relief to the assessee. The deduction claimed u/s 54EC was confirmed and deduction claimed u/s 54F was partly allowed. The order attained finality by dismissal of further appeals by assessee as well as by department vide Tribunal's orders. Consequently, penalty proceedings were initiated and penalty of Rs.39.99 Lacs was levied vide penalty order dated 30.05.2017 for concealment of income and furnishing of inaccurate particulars of income.

4. Upon further appeal, Ld. CIT(A) concurred with assessee's submissions that deduction u/s 54F was solely due to difference in interpretations of the provisions and therefore, the penalty was not to be levied on this count. However, the provisions of Sec. 54EC were clear that the investment in a financial year was not to exceed Rs.50

Lacs and therefore, it could not be said that the assessee's interpretation of provisions of Sec. 54EC was bona-fide. Therefore, the penalty against this addition as well as other two small addition of difference in pension and interest on bank account was to be confirmed. Aggrieved, the assessee is in further appeal before us.

5. From the facts, it emerges that the assessee considered the sale transactions as three sale transactions and made three separate investments in REC bonds to claim deduction u/s 54EC. The assessee accordingly claimed deduction of aggregate investment. The assessee furnished full particulars and made the claim in the return of income which was partly accepted. However, mere non-acceptance of claim made in the return of income would not attract penalty. In such a case, the ratio of decision of Hon'ble Supreme Court in the case of **CIT V/s Reliance Petroproducts Pvt. Ltd. (322 ITR 158)** was squarely applicable to assessee's case. In this decision, it has been held by Hon'ble Court that mere making of wrong claim do not amount to furnishing of inaccurate particulars of income. In the absence of finding that any details supplied by the assessee is incorrect or false, penalty could not be levied. The Ld. AO must prove that there was concealment of income or the return of income furnished by the assessee or documents submitted by assessee were based on incorrect fact, falsity and untruth. Therefore, it is not a fit case for imposition of penalty. The other two additions are small additions which, in any way, is not a fit case for levy of penalty considering the fact that the assessee is a senior citizen and may have missed out to compute pension and interest correctly. Therefore, we by deleting the impugned penalty, we allow the appeal.

6. The appeal stands allowed in terms of our above order.

Order pronounced on 20th October, 2022.

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / VICE PRESIDENT

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखकसदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 20-10-2022
EDN/-

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

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF