

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

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER

ITA No.5916/Del/2019
Assessment Year: 2015-16

Mrs. Gunjan Kawatra, 1005/B-1, Vasant Kunj, New Delhi	Vs.	Income Tax officer, Ward-33(5), New Delhi
PAN :AZSPK1229N		
(Appellant)		(Respondent)

Appellant by	Ms. Gunjan Kawatra, Assessee (Advocate)
Respondent by	Sh. Om Parkash, Sr. DR

Date of hearing	01.08.2022
Date of pronouncement	27.10.2022

ORDER

The assessee has filed the present appeal challenging the order dated 21.05.2019 passed by learned Commissioner of Income Tax (Appeals)-11, New Delhi, confirming the penalty imposed of Rs.1,66,504/- under section 271(1)(c) of the Income-tax Act, 1961 (in short 'the Act') for the assessment year 2015-16.

2. Briefly the facts are, the assessee is a resident individual. For the assessment year under dispute, the assessee filed her return of income on 23.08.2015 declaring income of Rs.5,87,730/-. In course of assessment proceeding, on perusing

the materials available on record, the Assessing Officer noticed that as per the bank statements, the assessee had earned income from interest on fixed deposits on which tax was deducted. Whereas, in the computation of income filed along with return of income, the assessee had not offered such income to tax. Accordingly, he called upon the assessee to explain why the interest income amounting to Rs.10,38,912/- not offered to tax should not be added back to the income as income from other sources. In response to the query raised, the assessee filed a revised computation of income offering the interest income of Rs.10,38,912/-. Further, the Assessing Officer noticed that the interest income earned from savings bank accounts as offered by the assessee is lesser by Rs.1,31,250/- when compared to the actual interest income earned during the year. When this fact was pointed out to the assessee, she offered the amount of Rs.1,31,250/- as income. Thus, the Assessing Officer completed the assessment determining the total income at Rs.17,57,890/- Since, the assessee had not offered a part of the interest income in the return of income, the Assessing Officer initiated proceeding for imposition of penalty under section 271(1)(c) of the Act alleging furnishing of inaccurate particulars of income. Against

the assessment order so passed, the assessee preferred an appeal before learned Commissioner (Appeals). While deciding the appeal, learned Commissioner (Appeals) granted partial relief to the assessee by reducing the addition made on account of interest income to Rs.9,34,844/-. On the addition sustained by learned Commissioner (Appeals), the Assessing Officer initiated proceeding for imposition of penalty under section 271(1)(c) of the Act by issuing a show-cause notice to the assessee. In response to the show-cause notice, the assessee furnished her explanation stating that since the TDS was not fully visible on the 26AS site, the full amount of interest income could not be offered in the original return of income. However, when the mistake came to notice of the assessee, the income was offered to tax. The Assessing Officer, however, did not find merit in the submission of the assessee and proceeded to impose penalty of Rs.1,66,504/- alleging furnishing of inaccurate particulars of income. Though, the assessee challenged the penalty imposed by filing an appeal before learned Commissioner (Appeals), however, she was unsuccessful.

3. I have considered rival submissions and perused the materials on record. It is evident, penalty under section 271(1)(c)

of the Act was imposed on the assessee on the allegation that interest income earned during the year on fixed deposits and savings bank accounts were not offered to tax in the return of income filed for the assessment year under dispute. However, the Assessing Officer has acknowledged the fact that in course of assessment proceeding, the assessee did file revised computation of income offering the interest income, which was not offered to tax in the return of income.

4. It appears on record, while explaining the reason for not offering the interest income to tax in the return of income, the assessee had explained before the departmental authorities that the TDS figure and the corresponding income relating to second, third and fourth quarter of the relevant financial year were made available on the 26AS site only in September, 2017 by ICICI Bank. The aforesaid explanation of the assessee appears to be believable in view of the certificate issued by the concerned bank on 28th April, 2018, a copy of which is placed at page 37 of the paper-book. Therefore, in my view, there was reasonable cause in terms with section 274 of the Act in not offering the interest income to tax in the return of income. In my view, the departmental authorities have failed to consider the explanation

of the assessee in proper perspective. In any case of the matter, the assessee has offered the entire interest income to tax whether in the return of income or in course of assessment proceeding.

5. That being the factual position emerging on record, the assessee should not be visited with penalty under section 271(1)(c) of the Act. Accordingly, I delete the penalty imposed. The impugned order of learned Commissioner (Appeals) is hereby set aside.

6. In the result, the appeal is allowed.

Order pronounced in the open court on 27th October, 2022

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 27th October, 2022.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi