

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, AHMEDABAD**

**BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER &
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

I.T.A. No.174/Ahd/2020
(Assessment Year: 2014-15)

The Sarvodaya Nagrik Sahkari Bank Ltd., Patel Market, Main Bazar, Visngar, Mehsana-384315	Vs.	DCIT Patan Circle, Patan
[PAN No.AAJT0159M]		
(Appellant)	..	(Respondent)

Appellant by :	None
Respondent by:	Shri Satish Solanki, Sr. DR
Date of Hearing	22.11.2022
Date of Pronouncement	30.11.2022

ORDER

PER SUCHITRA KAMBLE - JM:

This appeal is filed by the assessee against the order dated 08.01.2020 passed by the Ld. CIT(A), Gandhinagar, Ahmedabad for A.Y. 2014-15.

2. The grounds of appeal raised by the assessee read as under:

“1.1 The order passed u/s 250 on 8-1-2020 for A.Y. 2014-15 by CIT(A)-Gandhinagar confirming the penalty imposed by AO of Rs.2,79,295/- towards addition of LTCG is wholly illegal, unlawful and against the principles of natural justice.

1.2 The Ld. CIT(A) has grievously erred in law and on facts in confirming penalty imposed by AO of Rs. 2,79,295/- towards addition of LTCG without considering the explanation and evidences produced and thereby violating the principles of natural justice.

2.1 The Ld. CIT(A) grievously erred in law and on facts in confirming the penalty imposed by AO towards LTCG without appreciating contentions and submissions put forth during appellate proceedings.

2.2 The Ld. CIT(A) ought not to have upheld the penalty imposed by AO.

2.3 The Ld. CIT(A) ought to have appreciated that there was technical default in as much as the notice initiating penalty don't specify the nature of default as in concealment of income or inaccurate particulars of income.

2.4 The Ld. CIT(A) ought to have appreciated that quantum proceedings are decided in favour of appellant so that penalty is not automatic.

3.1 Without prejudice and in alternative, the penalty confirmed by CIT(A) is highly excessive and calls for substantial reduction.”

3. The assessee is a Co-operative Credit Society engaged into banking business. The original return of income was filed on 28.02.2015 declaring total income at Rs. NIL. During the course of assessment proceedings the Assessing Officer observed that the assessee sold an immovable property amounting to Rs. 62,10,000/- on 03.08.2013. Further on perusal of books of accounts and computation of income, the Assessing Officer noted that the assessee has not shown the said capital gain in the return of income. Therefore, the Assessing Officer made addition of Rs. 13,55,798/- as addition on account of Long Term Capital Gain (in short 'LTCG').

4. Being aggrieved by the assessment order the assessee filed before the CIT(A). The CIT(A) dismiss the appeal of the assessee.

5. The penalty order under Section 271(1)(c) was levied vide order dated 22.03.2018 in the assessee's case which was challenged by the assessee before the CIT(A) and the CIT(A) dismiss the appeal of the assessee.

6. None appeared on behalf of the assessee at the time of hearing despite giving notices to the assessee. Hence, we are proceeding on the basis of the assessment order, penalty order and the order of the CIT(A).

7. The Ld. D.R. relied upon the assessment order, penalty order and the order of the CIT(A).

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8. We have heard the Ld. D.R. and perused all the relevant material available on record. It is pertinent to note that the assessee at the time of penalty proceedings pointed out to the Assessing Officer that profit on sale of capital asset was also disclosed in Profit & Loss Account and it was only a bona fide error in disclosing such amount in return of income. It appears that the error was bona fide and not intentional and the decision of Hon'ble Supreme Court in case of CIT vs. Reliance Petro Products Pvt. Ltd. 322 ITR 158 will be applicable in the present case wherein it is held when there is a genuine mistake on the part of assessee that cannot amount to furnishing of inaccurate particulars of income. Thus, penalty under Section 271(1)(c) of the Act levied by the Assessing Officer is not just and proper in the present case.

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

This Order pronounced in Open Court on	30/11/2022
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Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER

Ahmedabad; Dated 30/11/2022

TANMAY, Sr. PS

TRUE COPY

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)

आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad