

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI  
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।  
Before Shri V. Durga Rao, Judicial Member &  
Shri Manoj Kumar Aggarwal, Accountant Member

आयकर अपील सं./I.T.A. No.3457/Chny/2019  
निर्धारण वर्ष/Assessment Year: 2014-15

The Income Tax Officer,  
Non Corporate Ward 3(3),  
121, Mahatma Gandhi Road,  
Nungambakkam, Chennai 600 034.

Vs. Ms. Barai Hitendra Sunita,  
No. 35, Poes Garden,  
Chennai 600 086.

[PAN: BKOPS4159K]

(अपीलार्थी /Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri P. Sajit Kumar, JCIT  
प्रत्यर्थी की ओर से/Respondent by : Shri T. Vasudevan, Advocate  
सुनवाई की तारीख/ Date of hearing : 11.01.2023  
घोषणा की तारीख /Date of Pronouncement : 13.01.2023

**आदेश /ORDER**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

This appeal filed by the Revenue is directed against the order of the Id. Commissioner of Income Tax (Appeals) 4, Chennai, dated 23.10.2019 relevant to the assessment year 2014-15. The only issue involved in this appeal is relating to deletion of penalty levied under section 271(1)(c) of the Income Tax Act, 1961 ["Act" in short].

2. Facts are, in brief, that the assessee is an individual and filed her return of income for the assessment year 2014-15 on 13.03.2015

admitting total income of ₹.9,08,720/-. In the return of income, the assessee had admitted an amount of ₹.52,22,970/- as long term capital gains on the sale of shares of M/s. Shree Shaleen Textiles Ltd. i.e., SHRSHA TEX and claimed exemption under section 10(38) of the Act. The Assessing Officer made an enquiry about M/s. Shree Shaleen Textiles Ltd. and came to a conclusion that this is one of the bogus company as per the investigation conducted by the Directorates of Investigation, Kolkata and Delhi. In view of the above, the Assessing Officer issued show-cause notice dated 21.12.2016 to the assessee by stating that as to why the long term capital gains claimed by the assessee should not be brought to tax under section 68 of the Act for the reason that the assessee has invested in bogus company knowing that the company is not doing well and only to make profit. In response to the above notice, the AR of the assessee filed a letter dated 28.12.2016 stating that the assessee had entered into contract with the brokers, got the shares and never expected that the Public Limited Company traded on Stock Exchange supposed to abide SEBI regulations, will do the manipulations in trading of shares and to buy peace and avoid further complications, paid the tax. The Assessing

Officer has accepted the same and completed the assessment under section 143(3) of the Act dated 30.12.2016.

3. Subsequently, the Assessing Officer has initiated penalty proceedings under section 271(1)(c) of the Act and called explanation from the assessee as to why penalty cannot be levied. In response to the notice issued by the Assessing Officer, the assessee filed a letter dated 19.02.2017 and submitted that the assessee was not aware of the manipulations done by the public limited company (with SEBI Regulator), paid the taxes and that she has not concealed the income nor had given inaccurate particulars of income and requested that penalty may be dropped. The Assessing Officer, during the course of penalty proceedings, considered the explanations of the assessee and that due to scrutiny assessment proceedings, the assessee paid the tax and if there is no scrutiny taken place, the income of the assessee would have escaped assessment and therefore, levied minimum penalty under section 271(1)(c) of the Act. On appeal, the Id. CIT(A) deleted the penalty on the ground that the assessee made the claim of long term capital gain, which is not eligible and therefore, it is not sufficient ground to invoke the provisions of section 271(1)(c) of the Act.

4. Against the order passed by the Id. CIT(A), the Department carried the matter in appeal before the Tribunal. The Id. DR has submitted that the claim made by the assessee is a bogus claim and therefore, the penalty has to be levied under section 271(1)(c) of the Act and strongly supported the order passed by the Assessing Officer.

5. On the other hand, the Id. Counsel for the assessee has submitted that once the details of company in which the assessee has purchased shares came to the notice, the assessee has offered voluntarily entire amount for taxation and therefore, the assessee has neither concealed the income nor furnished inaccurate particulars and therefore, section 271(1)(c) of the Act has no application.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. The assessee has purchased shares from M/s. Shree Shaleen Textiles Ltd. and claimed exemption under section 10(38) of the Act. The Assessing Officer has examined the issue in detail and came to a conclusion that the shares purchased by the assessee from a company, which was a bogus company, as per the investigation done by the Directorate of Investigations, Kolkata and Delhi. He also noted that the company has not done any business in the previous year and also in the assessment

year under consideration. The assessee has purchased the shares from a bogus company and it was brought to the notice of the assessee that her claim was bogus claim. Once the Assessing Officer brought all the details to the notice of the assessee, the assessee has offered the entire capital gains for taxation and accordingly, the same was taxed. In this case, the Assessing Officer assessed the tax as offered by the assessee. The Assessing Officer has not made any independent investigation in respect of the assessee that the company in which shares were purchased. However, the Assessing Officer came a conclusion through general enquiry that the company in which the shares were purchased by the assessee is a bogus company. In this case, we find that the assessee has neither concealed the income nor furnished inaccurate particulars of income. The assessee filed all the details before the Assessing Officer. Once it came to the notice of the assessee that the company in which shares purchased is bogus company, she offered the entire income for taxation. Thus, in our considered opinion, it is not amount to concealment of income or furnishing of inaccurate particulars warranting levy of penalty under section 271(1)(c) of the Act. Thus, the Id. CIT(A) has rightly directed the Assessing Officer to delete the penalty levied under section

271(1)(c) of the Act and we find no infirmity in the order passed by the Id. CIT(A).

7. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on the 13<sup>th</sup> January, 2023 at Chennai.

Sd/-  
(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, the 13.01.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy 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.