

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.616/PUN/2023
निर्धारण वर्ष / Assessment Year : 2009-10

M/s. Shriram Stone Company,
Lakkad Kot, Aurangabad Road,
Near Bus Stand, Jalna-431203

PAN : AAKFS9633F

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward - 1, Jalna

.....प्रत्यर्थी / Respondent

Assessee by : Shri Rajendra Agiwal
Revenue by : Shri M.G. Jasnani

सुनवाई की तारीख / Date of Hearing : 05-06-2023
घोषणा की तारीख / Date of Pronouncement : 08-06-2023

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 03-05-2023 passed by the National Faceless Appeal Centre, Delhi ("NFAC") for assessment year 2009-10.

2. The only issue is to be decided is as to whether the CIT(A), NFAC, Delhi justified in confirming the penalty imposed by the AO u/s. 271(1)(c) of the Act in the facts and circumstances of the case.

3. We note that the AO added an amount of Rs.21,28,534/- to the total income of the assessee on account of hawala purchases vide its order dated 27-03-2015. Aggrieved by the same, the assessee preferred an appeal before the CIT(A), NFAC, Delhi, which in turn, disposed off the appeal restricting the addition on estimation basis to an extent of Rs.3,19,280/- (15% of Rs.21,28,534/-). Before us, the ld. AR vehemently contended that the addition was restricted on estimation basis, the penalty imposed by the AO is not maintainable. On perusal of the penalty order dated 23-03-2018, we note that the AO initiated penalty proceedings after disposal of the quantum appeal by the CIT(A)-1, Aurangabad wherein, as discussed above, modified the addition made by the AO. It is, therefore, clear that the AO initiated penalty proceedings u/s. 271(1)(c) of the Act on the addition which was made on estimation basis. It is settled law that no penalty lies on the addition made on ad-hoc/estimation basis. Therefore, the penalty imposed by the AO u/s. 271(1)(c) and as confirmed by the CIT(A), NFAC, Delhi is not justified. Thus, the ground raised by the assessee is allowed.

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

Order pronounced in the open court on 08th June, 2023.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 08th June, 2023.

रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The concerned CIT, Pune.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune