

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No. 97/Asr/2023
Assessment Year: 2012-13**

Smt Geetanjali Mahajan, 80-Banda Bahadur Nagar, Jalandhar [PAN:-AJAPM0160C] (Appellant)	Vs.	ITO, Ward. 1(5) Jalandhar (Respondent)
--	-----	---

Appellant by	Sh. Vikas Bhagat, Adv.
Respondent by	Sh. Pradeep Kumar, Sr. DR

Date of Hearing	12.06.2023
Date of Pronouncement	14.06.2023

ORDER

Per: Anikesh Banerjee, JM:

The instant appeal of the assessee was filed against the order of the Id. Commissioner of Income-tax (Appeals), NFAC, Delhi [in brevity CIT(A)], orders passed u/s. 250 of the Income Tax Act, 1961(in brevity the Act), for assessment year 2013-14. The impugned order was emanated from the order of the Id. Income Tax Officer, Ward 1(5), Jalandhar (in brevity the AO), order passed u/s. 271(1)(c) of the Act.

2. The brief fact of the case is that the assessee filed return u/s.139(1) of the Act and declared total income of Rs.1,55,660/- against which refund amount of Rs.25.360/- had been claimed. The notice u/s. 148 was issued and assessee filed a return in pursuance of this notice u/s. 148 and declared total income amount to Rs.4,31,670/-. The assessee has declared an additional income of Rs. 2,76,010/- in the return, filed u/s. 148. The assessment was completed. The penalty proceedings was initiated against the excess income amount of Rs.2,76,010/-, declared in return in pursuance of notice u/s. 148 and addition made during the assessment amount to Rs.1294/-. The total penalty was levied amount to Rs.25,025/- which is @100% of the concealed tax. Aggrieved assessee filed an appeal before the Id. CIT(A). The Id. CIT(A) upheld the order of the AO. Being aggrieved assessee filed an appeal before us.

3. The Id. AR for assessee filed written submission, which was kept on the record. The Id. AR argued that the excess income was declared during filing of return u/s. 148. The Id. AR respectfully relied on the order of Hon'ble Jurisdictional High Court in the case of **CIT vs. Rajiv Garg (2009) 313 ITR 256(P & H)**. Relevant paragraph is extracted as below:

*“Penalty under s. 271(1)(c)- Concealment-
Surrender of additional income in return filed pursuant
to notice under s. 14-Return was accompanied by a note*

wherein the assessee stated that he has surrendered the entire amount of sale proceeds of shares to buy peace of mind and to avoid hazards of litigation and also to save himself from any penal action- Aforesaid explanation was neither rejected nor it was held to be mala fide- Tribunal has recorded a pure finding of the fact that the Revenue has not placed any material or evidence on record to discharge its burden of proving concealment- It has further held that the additional income was offered by the Assessee in god faith and to buy peace- Penalty under s. 271(1)(c) rightly deleted Assessee having surrendered additional income along with an explanation in the revised return filed in pursuance of notice under s. 148, and the assessing authority having not taken, any objection that the assessee's explanation was not bona fide under s. 271(1)(c) is not leviable.”

4. The Id. DR vehemently argued and relied on the order of the revenue authorities.

5. We heard the rival submissions and considered the documents available in the record. During the hearing the Id. AR fully relied on the order of Jurisdictional High Court. Excess income was declared in the return filed u/s.

148 of the Act. The assessee paid the tax accordingly, on the basis of the additional income. No new conceal income was found by the Id AO during assessment. We respectfully relied on the order of Jurisdictional High Court in case of **Rajiv Garg**, *supra*. Accordingly, penalty u/s. 271(1)(c) amount to Rs.25,050/- is quashed.

6. In the result the appeal of the assessee bearing **ITA no. 97/ASR/2023** is allowed.

Order pronounced in the open court on 14.06.2023

Sd/-

(Dr. M. L. Meena)
Accountant Member

Sd/-

(ANIKESH BANERJEE)
Judicial Member

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By order