

**THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

**Before Dr. B. R. R. Kumar, Accountant Member
Sh. Yogesh Kumar US, Judicial Member**

ITA No. 9029/Del/2019 : Asstt. Year: 2008-09

OSGL Buildwell Pvt. Ltd., Sumer Garg & Co., E-501A, GDITL Northex Tower, Plot No. A-09, Netaji Subhash Place, Pitampura, New Delhi-110034	Vs.	ACIT, Circle-19(1), New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. AAACO9334N		

**Assessee by : Sh. S. C. Garg, CA
Revenue by : Sh. Arvind Kr. Bansal, Sr. DR**

Date of Hearing: 08.06.2023	Date of Pronouncement: 28.06.2023
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ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of Id. CIT(A)-22, New Delhi dated 13.09.2019.

2. The Id. CIT(A) dismissed the appeal of the assessee owing to the delay in filing of the appeal. The delay was due to the fact that the assessee has not received the penalty order and the appellant came to know after the receipt of the demand notice. The explanation of the assessee is acceptable.

3. The issue of notice u/s 274 r.w.s. 271(1)(c) of the Income Tax Act, 1961 dated 11.03.2016 issued by the DCIT reads as under:

"Have concealed the particulars of your income or furnished inaccurate particulars of such income in terms of explanation 1, 2, 3, 4 and 5 [penalty u/s 271(1)(c)]."

4. On this issue, we are guided by the following judgments:

- 1) Karnataka High Court: CIT vs. Manjunatha Cotton and Ginning Factory: 359 ITR 565 held that notice under section 274 should specifically state the grounds mentioned in section 271(1)(c) of the Act, i.e., whether it is for concealment of income or for furnishing of incorrect particulars of income. Sending printed form where all the grounds mentioned in section 271 are mentioned would not satisfy requirement of law.
- 2) Bombay High Court: Mr. Mohd. Farhan A. Shaikh Vs ACIT Section 271(1)(c): Penalty-Concealment-Non-striking off of the irrelevant part while issuing notice u/s 271(1)(c) of the Income Tax Act, order is bad in law. Assessee must be informed of the ground of the penalty proceedings only through statutory notice. An omnibus notice suffers from the vice of vagueness.
- 3) The Hon'ble jurisdictional Delhi High Court in the case of PCIT vs. Sahara India Life Insurance Co. Ltd. in ITA No. 475 of 2019, reiterated that notice under section 274 should specifically state the grounds on which penalty was sought to be imposed as the assessee should know the grounds which he has to meet specifically.
- 4) The aforesaid principle has been reiterated in the in the case of CIT vs. SSA'S Emerald Meadows: 73 taxmann.com 241 (Kar) [Revenue's SLP dismissed in 242 Taxman 180]

5. Hence, respectfully following the order of the Hon'ble Jurisdictional High Court, since the AO has not been specified u/s 274 as to whether penalty is proposed for alleged 'concealment of income' OR 'furnishing of inaccurate particulars of such income', the penalty levied is hereby obliterated.

6. In the result, the appeal of the assessee is allowed.
Order Pronounced in the Open Court on 28/06/2023.

Sd/-

(Yogesh Kumar US)
Judicial Member

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 28/06/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR