

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT  
AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.550/PUN/2023  
निर्धारण वर्ष / Assessment Year : 2012-13

Meera Anirudha Mirgunde,  
Malhar, S. No. 50/10/9,  
Plot No. 0389, Narhe Road,  
Narhe Village, Pune – 411041

PAN : AHMPM3475G

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Income Tax Officer,  
Ward – 6(1), Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri C.H. Naniwadekar &  
Kiran Sanmane  
Revenue by : Shri Ramnath P. Murkunde

सुनवाई की तारीख / Date of Hearing : 23-06-2023  
घोषणा की तारीख / Date of Pronouncement : 03-07-2023

**आदेश / ORDER**

**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the assessee against the order dated 07-03-2023 passed by the National Faceless Appeal Centre ("NFAC"), Delhi for assessment year 2012-13.

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. The ld. AR submits that the assessee filed return of income in response to the notice u/s. 148 of the Act declaring a total income of Rs.9,57,230/-. The said income was accepted by the respondent-revenue vide its order dated 14-12-2019 passed u/s. 143(3) r.w.s. 147 of the Act. The AO initiated penalty proceedings u/s. 271(1)(c) of the Act treating the returned income in response to the notice u/s. 148 of the Act as concealment of income, accordingly imposed penalty of Rs.1,50,000/- u/s. 271(1)(c) of the Act. The NFAC, Delhi confirmed the same.

4. Before us, the ld. AR argued that there was no addition made by the AO and in the absence of any satisfaction in the assessment order, imposing penalty by the AO attracting the charges u/s. 271(1)(c) of the Act, is bad in law. He argued that no demand whatsoever raised by the Revenue and without there being any charge of furnishing inaccurate particular of income and concealment of income, the AO levied penalty. He relied on the decision of Hon'ble High Court of Delhi in the case of SAS Pharmaceuticals reported in 335 ITR 259 (Del), Mumbai Tribunal in the case of Armoury International Pereira Compound in ITA Nos. 3299, 3300 & 3301/Mum/2017, Delhi Tribunal in the case of Meeta Gutgutia in ITA No. 327/Del/2014 and argued that unless it is found the actual concealment of income or furnishing inaccurate particulars of income, penalty cannot be imposed.

5. The ld. DR relied on the decision of Hon'ble Supreme Court in the case of Gangotri Textiles Ltd. reported in (2022) 137 taxmann.com 198 (SC), Hon'ble High Court of Bombay in the case of Shanti Ramanand Sagar reported in (2017) 88 taxmann.com 72 (Bombay), Hon'ble High Court of Punjab and Haryana in the case of Pearey Lal & Sons (EP) Ltd. reported in (2009) 177 Taxman 302 (Punjab & Haryana) and argued that the ratio laid

down in the said cases are clearly applicable to the facts on hand and prayed to confirm the order passed by the NFAC, Delhi.

6. Controverting the submissions of Id. DR, the Id. AR contended that the reliance placed on the decision of Hon'ble Supreme Court, Hon'ble High Court of Bombay and Punjab and Haryana, that in those cases assessed income is varied from returned income, the ratio laid down in the above said cases are not applicable to the facts on hand.

7. We note that admittedly, the return of income filed by the assessee in response to the notice u/s. 148 of the Act was accepted by the Revenue, but however, taking into account, treating the said returned income as concealment of income, the AO initiated proceedings u/s. 271(1)(c) of the Act. Admittedly, there was no disallowance or addition made by the AO in the assessment order and no demand raised by the AO. We note that as rightly pointed by the Id. AR the ratio laid down by the Hon'ble Supreme Court, Hon'ble High Court of Bombay and Punjab and Haryana are not applicable to the facts on hand as there was variation in the assessed income compared to return income in the said cases. In the present case, there was no such variation whatsoever in the returned income declared by the assessee which was accepted by the AO in the reassessment proceedings. The decision of Hon'ble High Court of Delhi in the case of SAS Pharmaceuticals (supra) relied on by the Id. AR, it held that no penalty can be imposed under the provisions of section 271(1)(c) of the Act unless the condition stipulated therein are duly and unambiguously satisfied. In the present case, there is no concealment of income or furnishing of inaccurate particulars of income attracting the provisions u/s. 271(1)(c) of the Act as the assessee made complete disclosure in the return of income and further offered the same for taxation, when that is the case we find the conditions stipulated under the provisions u/s. 271(1)(c) of the Act are not

satisfied as there was no satisfaction by the AO that the assessee really concealed or furnished inaccurate particulars of income in the return of income. We find the ratio laid down by the Hon'ble High Court of Delhi in the case of SAS Pharmaceuticals (supra) which was followed by the Delhi Tribunal in the case of Meeta Gutgutia (supra) holding no penalty is maintainable when there is no variation in the return of income and assessed income. Therefore, taking into consideration the case relied on by the Id. AR and facts and circumstances of the case, we find the ratio of laid down by the Hon'ble High Court of Delhi in the case of SAS Pharmaceuticals (supra) which was followed by the Delhi Tribunal in the case of Meeta Gutgutia (supra) are applicable to the facts on hand. Thus, the order of NFAC, Delhi is not justified and ground raised by the assessee is allowed.

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

Order pronounced in the open court on 03<sup>rd</sup> July, 2023.

Sd/-  
(R.S. Syal)  
VICE PRESIDENT

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

पुणे / Pune; दिनांक / Dated : 03<sup>rd</sup> July, 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, "ए" बेंच,  
पुणे / DR, ITAT, "A" 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