

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: SMC: NEW DELHI

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

ITA Nos.7113 to 7115/Del/2019
Assessment Years: 2010-11 to 2012-13

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| Pramila Tarneja, A-402, Ground Floor, Defence Colony, New Delhi 110024 PAN AAFPT 9556 K | vs. | The DCIT Circle 3(1)(1), International Taxation, New Delhi |
| (Appellant) | | (Respondent) |

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|---------------|-----------------------------------------|
| For Assessee: | Ms. Pramila Tarneja, Assessee in Person |
| For Revenue : | Shri Om Prakash, Sr. DR |

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| Date of Hearing : | 06.06.2023 |
| Date of Pronouncement : | 17.08.2023 |

ORDER

PER CHANDRA MOHAN GARG, J.M.

These appeals have been filed against the order of Ld. CIT(A)-43, New Delhi dated 25.06.2019 for AYs 2010-11 to 2012-13. The Id. Representatives of both the sides agreed that the facts and circumstances of all three penalty appeals are similar and identical therefore we taken appeal for AY 2010-11 ITA No. 7113/Del/2019 as lead case for the sake of convenience and brevity.

2. The ground has been raised by the assessee in **ITA No. 7113/Del/2019** is as follows:-

1. On the facts and circumstances of the case and as per law, the Learned Assessing Officer has drawn an erroneous and unjustified inference and the Learned CIT(Appeals) has erred in sustaining the same in levying a penalty u/s. 271(1)(c) amounting to Rs. 98,769/- incorrectly implicating the assessee to furnish inaccurate particulars of income.

3. First of all the assessee drew our attention towards ground raised in form no. 36. As per ground of assessee on the facts and circumstances of the case and as per law, the Learned Assessing Officer has drawn an erroneous and unjustified inference and the

Learned CIT(Appeals) has erred in sustaining the same in levying a penalty u/s. 271(1)(c) amounting to Rs. 98,769/- incorrectly implicating the assessee to furnish inaccurate particulars of income. The assessee submitted that in response to notice u/s. 148 of the Act the assessee included the impugned income in its return of income and also paid due taxes etc thereon as per requirement of law therefore the assessee cannot be alleged that she either concealed particulars of its income or has furnished inaccurate particulars of income pertaining to interest income. The assessee appearing in person submitted that she is a law abiding citizen and has always been very sincere and honest in calculating and paying due taxes as per provisions of the Act but due to omissions on the part of tax consultant interest income could not be included while filing original return of income and as soon as such omission was came to the notice of assessee then the assessee will fully and voluntarily declared the same in the return of income filed in response to notice u/s. 148 of the Act, hence penalty for concealment of income cannot be levied on the assessee.

4. Replying to the above, the Id. Senior DR supported the penalty order and submitted that the assessee did not disclose interest income in a return of income and when the Assessing Officer initiated the reassessment proceedings then the assessee came forward and declared interest income in the revised return filed in response to notice u/s. 148 of the Act, hence, the Assessing Officer was right in imposing penalty on the assessee u/s. 271(1)(c) of the Act for concealment of particulars of her income.

5. Placing rejoinder to the above, the assessee submitted that assessee now 75 years of age being senior citizen is a doctor (gynecologist) by profession. She was commissioned in the Army Medical Corps and seconded to the Indian Navy in the year 1971. After serving in various Army and Naval Hospitals for nearly 32 years, she took premature retirement in the 2022 when she was posted as Professor and head in the Department of Obstetrics & Gynecology at the Armed Forces Medical College at Pune and was holding the post of surgeon captain. Therefore penalty may kindly be cancelled keeping in view bonafide of assessee.

6. On careful consideration of above submission from the reassessment as well as penalty order it is clearly discernable that the assessee in response to notice u/s. 148 of the Act included the impugned interest amount in her return of income and also paid due taxes etc thereon and these facts have not been disputed either by the authorities below or by the Id. Senior DR before us. The main basis for imposing penalty is that the assessee did not disclose interest income in the original return of income but the subsequent return filed by the assessee was inclusive of interest income. We also note that as per contentions raised by the assessee before the Ld. CIT(A) it was in the year 2016-17 when the assessee followed up with the department on rectification of certain

demands outstanding as well as refunds due for various years that the staff involved in jurisdiction ward checked up the data of income Form 26AS as well as TDS and found certain discrepancies. Since by then the time for revision in return for the relevant year was barred by limitation, no option was available to assessee for rectifying the discrepancies. We further note that the assessee before the authorities below specifically stated that based on the discrepancies noticed by the AO, notice u/s. 148 was served on the assessee. It is pertinent to mention that reassessment proceedings were initiated by the department based on the details during follow up provided by the assessee herself to the department which details were already available with the department in its database.

7. On the basis foregoing discussion, we safely presume that there was a bonafide reason due to which the assessee could not revise her return of income to include interest income came to her notice after filing of return u/s. 139(1) of the Act. We clearly note that when she was called to file return of income by way of notice u/s. 148 of the Act then the assessee filed returns of income including interest income and also paid due taxes etc thereon. Keeping in view above noted facts and circumstances coupled with bonafide of assessee in declaring interest income and payment of due taxed etc thereon we are not in agreement with the conclusion drawn by the Assessing Officer that the assessee has concealed particulars of her income. Therefore, we are inclined to hold that imposition of penalty u/s. 271(1)(c) of the Act is not justified and valid. Therefore, we direct the Assessing Officer to delete the penalty. Accordingly sole ground of assessee is allowed.

8. Since facts and circumstances of AY 2010-11 are quite similar and identical to AY 2011-12 & 2012-13 therefore our conclusion drawn in the earlier part of this order for penalty appeal of AY 2010-11 would apply mutatis mutandis to other two appeals. Accordingly, sole ground in the penalty appeal no. 7114 & 7115/Del/2019 is also allowed and thus the Assessing Officer is directed to delete the penalty.

9. In the result, all the three appeals of the assessee are allowed.

Order pronounced in the open court on 17.08.2023.

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Sd/-
(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

Dated: 17th August, 2023.

NV/-

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

// By Order //

Asstt. Registrar, ITAT, New Delhi