

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

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER

ITA Nos.222 & 223/Del/2023
Assessment Years: 2015-16 & 2016-17

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| Jaina Marketing & Associates, D-170, Okhla Industrial Area, Phase-1, Tehkhand, South East Delhi, Delhi 110020 PAN AADFJ 4417 D | vs. | The DCIT, Central Circle 18, Delhi |
| (Appellant) | | (Respondent) |

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| For Assessee: | Ms. Monika Agarwal, Adv. |
| For Revenue : | Shri Manish Tiwari, Sr. DR |

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| Date of Hearing : | 17.08.2023 |
| Date of Pronouncement : | 30.08.2023 |

ORDER

PER CHANDRA MOHAN GARG, J.M.

1. Captioned appeals have been filed against the consolidated order of CIT(A) -27, New Delhi dated 26.12.2022 for AY 2015-16 & 2016-17 by which the penalty imposed by the Assessing Officer u/s. 271(1)(c) of the I.T Act 1961 have been upheld.

2. The Id. counsel drawing our attention towards copies of the notices dated 02.06.2021 u/s. 274 r.w.s 271 of the I.T Act 1961 (for short the 'Act') for both the said assessment years, submitted that when the penalty proceedings have been initiated by the AO without specifying the allegation as to whether the assessee has conceal particulars of income or has furnished inaccurate particulars of income then the penalty cannot be held as valid and sustainable. The Id. counsel placed reliance on the judgment of Hon'ble Karnataka High Court in the case of S.S.A Emerald Meadows (2016) 73 taxmann.com 241 (Kar.) and judgment of Hon'ble jurisdictional High Court dated 02.08.2019 in ITA No. 475/2019 PCIT vs. M/s Sahara India Life Insurance Company Ltd. & Other connected appeals.

3. Replying to the above the Id. Senior DR supported the orders of the authorities below and submitted that the AO has rightly levied penalty u/s. 271(1)(c) of the Act by concluded that the assessee had conceal particulars of its income.

4. Copy of notices dated 02.06.2021 for AY 2015-16 & 2016-17 issued by the AO clearly reveals that the AO has not specify as to whether the assessee has conceal particulars of income or has furnished inaccurate particulars of income therefore the issue is squarely covered in favour of the assessee by the judgments of Hon'ble High Court of Karnataka in the cases of CIT vs. Manjunatha Cotton & gunning Factory 359 ITR 565 (Kar.) and in the case of CIT vs. S.S.A Emerald Meadows (supra). SLP of Department in the case of SSA Emerald Meadows (supra) has been dismissed by Hon'ble Supreme Court. Accordingly, AO is directed to delete the penalty. Sole grievance of assessee in both the appeals are allowed.

5. In the result, the appeals are allowed deleting the penalty.

Order pronounced in the open court on 30.08.2023.

Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER
Dated: 30th August, 2023.

Sd/-
(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

NV/-

Copy forwarded to :

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

// By Order //

Asstt. Registrar, ITAT, New Delhi