

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'A' : NEW DELHI)
BEFORE SH. G.S.PANNU, HON'BLE PRESIDENT
AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No. 4020/Del/2017
(Assessment Year : 2009-10)**

Sh. Amandeep Singh Sran 527 B, 5 th Floor, HBN Office, D-Mall, Distt. Centre, Paschim Vihar, New Delhi	Vs.	DCIT, Central Circle-29, New Delhi
(APPELLANT)		(RESPONDENT)

Assessee by	None
Revenue by	Sh. Kanv Bali, Sr. DR

Date of hearing:	24.08.2023
Date of Pronouncement:	31.08.2023

ORDER

PER ANUBHAV SHARMA, JM:

The appeal has been preferred by the Assessee against the order dated 22.03.2017 of CIT(A)-30, New Delhi (hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') in Appeal No. 14/15-16/1991 arising out of an appeal before it against the penalty order dated 03.03.2015 u/s 271(1)(c) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') passed by the A.O. / DCIT, CC-29, New Delhi (hereinafter referred as the Ld. AO).

2. The brief facts are that in this case, original return of income declaring total taxable income of Rs. 21,12,940/- for A.Y. 2009-10 was filed on

09.06.2010. A search and seizure operation u/s 132 of the Income Tax Act, 1961 was carried out at the business/residential premises of the assessee on 20/11/2009 as a part of HBN Group of cases. Accordingly proceedings were initiated u/s 153A by issue of notice dt. 02.06.2010. In response to this, assessee filed his return of income on 22.11.2010 declaring total taxable income at Rs. 21,12,940/-. Subsequently assessment was completed u/s 153A vide order dated 28.12.2011 determining total taxable income at Rs. 5,21,12,940/- by making an addition of Rs. 5,00,00,000/- on account of income from undisclosed sources. Penalty proceedings u/s 271(1)(c) of the Act were initiated by issue of notice dated 28.12.2011. The assessee company preferred appeal before the Ld. CIT(A) against the addition made and accordingly, the penalty proceedings were kept in abeyance till the disposal of appeal. As the appeal filed by the assessee was dismissed by order dated 28.03.2013, a show cause notice dated 08.12.2014 was issued by the Ld.AO affording an opportunity to the assessee to explain why a penalty u/s 271(1)(c) of the Act may not be levied.

3. Assessee had raised all the grounds on merits challenging the additions which are not accepted by Ld. AO and taking into consideration the statement recorded during the search and subsequent proceedings the Ld. AO imposed the penalty which Ld. CIT(A) has upheld observing that the assessee has failed to prove that transaction recorded in the seized paper do not belong to him, which was accepted as undisclosed income in the statement recorded 132(4) of the Act.

4. The assessee has challenged the same with following grounds ;

“1. Under the facts and the circumstances of the case, penalty order passed u/s 271(1)(c) of the Act by the ld. A.O. and confirmed by the ld. CIT(A) is invalid & bad in law as from the notice issued u/s 274 r.w.s. 271(1)(c) of the Act it is not discernable as to whether the penalty proceedings were initiated

for furnishing of inaccurate particulars of income or concealment of income and therefore, the impugned penalty order passed deserves to be quashed.

2. Under the facts and circumstances of the case, the ld. CIT(A) has grossly erred in passing the appellate order without affording adequate opportunity of being heard to the appellant.

3. Under the facts and circumstances of the case, the Ld. First Appellate Authority has grossly erred in upholding the action of ld. Assessing Officer imposing the penalty of 1,69,95,000/- u/s 271(1)(c) of the income Tax Act, 1961 which is highly injudicious, unwarranted, against the facts of the case and bad at law.

4. The appellant prays for leave to add, amend, alter or withdraw any grounds of appeal.”

5. As the case was called for hearing on 24.08.2023, non-appeared for the appellant and the record shows that after 20th March, 2023 matter has been listed repeatedly but none has appeared. Notice issued for today through RPAD are received back with the report that no person resides at the address. The record shows earlier professionals have appeared for the assessee and sought adjournments but have failed to file power of attorney for any date of hearing. No more notice to assessee is justified.

5.1 Ld. DR was heard who supported the findings of Ld. Tax Authorities below and also placed written submissions on record which have been taken into consideration.

6. Appreciating the matter on record it can be observed that in regard to first ground of appeal there is no matter on record to show as to what is the nature of ambiguity in the notice as issued. No copy of the notice is on record. At the same time it comes up that at the time of assessment Ld. AO has observed there was concealment of income for which proceedings u/s 271(1)(c) is being initiated and

in the penalty order also Ld. AO had concluded that assessee had concealed the particulars of his income. Thus, the ground no. 1 has no substance.

7. In regard to ground no. 2 and 3, the orders of Ld. Tax Authorities below show they have duly taken into consideration the fact that the confessional statement was corroborated by entries in the diary seized at the time of search. Thus the effect of retraction, if any does not help the appellant as the retracted confession is corroborated in material particulars There is no error in the findings of concealment of income as recorded by Ld. AO in the penalty order and as affirmed by Ld. CIT(A). The penalty levied does not require interference. The grounds raised have no substance.

8. **The appeal of assessee is dismissed.**

Order pronounced in the open court on 31st August, 2023.

(G.S.PANNU)
PRESIDENT

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Date:- 31st.08.2023

Binita, SR.P.S

Copy forwarded to:

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

AR, ITAT
New Delhi