

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE 'SMC' BENCHES :: PUNE

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER &  
SHRI G.D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA No.1398 & 1399/PUN/2023  
(A.Y. 2014-15 & 2016-17)

Ajit Narayan Patil, Plot No.29A, Sham Society, Near Crusher, Karveer, Kolhapur (Maharashtra)	vs	ACIT, Central Circle, Kolpaur.
PAN: ABQPP 6656 A		
Appellant		Respondent

Assessee by	:	None
Revenue by	:	Shri Gaurav K. Singh, DR
Date of hearing	:	19/02/2024
Date of pronouncement	:	20/02/2024

ORDER

Per PARTHA SARATHI CHAUDHURY, JM:

These appeals preferred by the assessee emanates from the separate orders of Commissioner of Income Tax [Appeals]-11, Pune, each dated 27/10/2023 & 30/10/2023 for A.Y.2014-15 & 2016-17 respectively as per the grounds of appeal on record.

2. In these cases, penalty u/sec. 271(1)(c) of the Act has been levied on the assessee, which is the solitary grievance in the present matter before us.

3. We observe from the proceedings before the first appellate authority that in ITA No. 1399/PUN/2023 as evident from para 5 & 6,

there were six opportunities of hearing given to the assessee by the Id.CIT(A) and in all those six opportunities, the assessee had failed to respond and there was also no compliance by the assessee. Similarly, for ITA No.1398/PUN/2023 before the Id. CIT(A) there were eight opportunities of hearing given to the assessee, as evident from para 5 & 6 of the order, but the assessee did not respond to any of the notices nor provided any compliance for hearing. That, even before this Tribunal, this is the 4<sup>th</sup> opportunity of hearing given to the assessee, but still on this day of hearing, assessee has not appeared nor has filed any written submissions. Therefore, the evasive nature of the assessee is absolutely clear and that he is taking the process of law in a very casual manner, thereby, delaying the outcome of justice. We, therefore, find no infirmity with the findings of the Id. CIT(A) in these matters for dismissing the appeals of the assessee for non-prosecution since mere filing of the appeal is not sufficient, but the assessee who has filed appeal, should be vigilant and should take his case to a logical end. That, with the present attitude and conduct of the assessee, it is evident that he is not interested in pursuing his appeals and therefore, both the appeals of the assessee are dismissed on the ground of non-prosecution.

4. That, on merits also, the assessee has suppressed his receipts and this fact had also been admitted by him in the statement recorded u/sec. 132(4) of the Act. That, during the course of penalty

proceedings also, no response or explanation were filed before the AO, which we have already examined. Even before the Id. CIT(A) in spite of being given more than reasonable opportunities, the assessee had failed to respond to hearing notices and even before the Tribunal, the assessee has not filed any submissions nor has appeared on the given date of hearing to represent his case on merits. The only contention that has been submitted by the assessee in his defence on merits is that he has declared the suppressed receipts amount in his return of income filed u/sec. 153A of the Act. The Hon'ble Kolkata High Court in the case of *CIT v. Prasanna Dugar* [2015] 59 taxmann.com 99 (Cal.) has held that even subsequent to search, if the assessee voluntarily discloses a sum and offers the same to tax, since the said amount was not disclosed in original return, penalty levied u/sec. 271(1)(c) was justified. The SLP against the same decision was dismissed by the Hon'ble Supreme Court in *Prasanna Dugar v. CIT* [2016] 70 taxmann.com 175 (SC) holding that even if assessee voluntarily disclosed a sum subsequent to search and offered said sum to tax, penalty levied under sec. 271(1)(c) r.w. Explanation 5A was justified.

5. Reverting to the present fact situation, it is evident that due to search action, it was disclosed that there had been suppression of receipts by the assessee. This suppression of receipts was also later on admitted by the assessee vide his statement u/sec. 132(4) of the

Act. The suppressed receipts were even disclosed as additional income in the return filed u/sec. 153A of the Act by the assessee. But the fact remains that if search had not taken place, then these suppressed receipts would not have been discovered and would have escaped being taxed. This is a definite case of concealment of income. Considering the facts and circumstances and the legal position in this matter, even on merits also, we do not find any infirmity in the findings of the Id. CIT(A) in upholding the levy of penalty u/sec. 271(1)(c) of the Act. All the grounds, in both the appeals, raised by the assessee stands dismissed.

6. In the result, appeals of the assessee are dismissed.

Order pronounced in open Court on 20<sup>th</sup> February, 2024.

Sd/-  
(G.D. PADMAHSHALI)  
ACCOUNTANT MEMBER

Sd/-  
(PARTHA SARATHI CHAUDHURY)  
JUDICIAL MEMBER

Dated : 20<sup>th</sup> February, 2024

vr/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The Pr. CIT concerned.
4. The DR, ITAT, "SMC" Bench Pune.
5. Guard File.

By Order

// TRUE COPY //

Senior Private Secretary  
ITAT, Pune.