

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"B" BENCH, BENGALURU BENCH  
BENGALURU**

**BEFORE SHRI N. K. CHOUDHRY, JM &  
SHRI LAXMI PRASAD SAHU, AM**

I.T.A. No.198/BANG/2024  
(Assessment Year: 2013-14)

**Smt. Shobha Lakshman**  
A-204, Temple Meadow  
Apartments,  
27<sup>th</sup> Cross, Kaigarika Layout,  
Kaveri Nagar, BSK 2<sup>nd</sup> Stage,  
Bengaluru – 560 070

**Income Tax Officer,  
Ward - 7 (2)(4)**  
Bengaluru

Vs.

PAN No. **ABUPL5146K**

**(Appellant) : (Respondent)**

**Appellant/Assessee by** : Shri Siddesh Nagaraj Gaddi, CA  
**Respondent/Department by** : Shri Subramanian S., JCIT

**Date of Hearing** : 21.03.2024  
**Date of Pronouncement** : 22.03.2024

ORDER

**Per N. K. Choudhry, JM:**

This appeal has been preferred by the Assessee against the order dated 28.12.2023, impugned herein, passed by National Faceless Appeal Centre (NFAC), Delhi/Ld. Commissioner of Income Tax (Appeals) [in short 'Ld. Commissioner'] under section 250 of the Income Tax Act 1961 (in short 'the Act') for the Assessment Year (in short 'AY') 2013-14.

**2.** In the instant case, the Assessee by filing its return of income for the Assessment Year under consideration on 31.3.2014 declared its total income as Rs.2,66,000/-. The case of the Assessee was selected by CASS for 'Complete Scrutiny' for variation in large investment in property as compared to total income. The Assessing Officer (in short 'AO') by considering the claim of deduction u/s. 54F of the Act by the Assessee, vide assessment order dated 18.2.2010 u/s. 143(3) of the Act ultimately made the additions of Rs.2,43,72,000/- and Rs.25,18,335/- respectively on account of Long Term Capital Gain and un-explained investment. The AO also initiated the penalty proceedings for furnishing inaccurate particulars of income and consequently issued notice u/s. 274 r.w.s. 271(1)(c) of the Act and ultimately vide penalty order dated 28.6.2019 imposed the penalty for concealment of income.

**3.** The Assessee filed appeal before the Id. Commissioner against the imposition of penalty but despite of granting various opportunities to furnish the details, the Assessee failed to avail the same and in fact without any reason made no compliance hence, the Assessee do not deserve any leniency. However considering the peculiar facts and circumstances of this case, as the limb (for furnishing inaccurate particulars of income) under which the penalty proceedings were initiated, infact not culminated into levy of any penalty but infact the AO admittedly imposed the penalty on a different limb (for concealment of income) on which no penalty proceedings have been initiated, therefore, the penalty imposed/levied by the AO and affirmed by the Ld. Commissioner, is not sustainable, hence the same is deleted.

**4.** In the result the appeal filed by the Assessee is allowed.

Order pronounced on the 22<sup>nd</sup> day of March, 2024, as per Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963.

*Sd/-*  
**(Laxmi Prasad Sahu)**  
**Accountant Member**

*Sd/-*  
**(N. K. Choudhry)**  
**Judicial Member**

*Mini, Sr.PS.*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt.Registrar)  
**ITAT, Bengaluru**