

IN THE INCOME TAX APPELLATE TRIBUNAL

PUNE "A" BENCH : PUNE

[THROUGH VIRTUAL HEARING]

BEFORE SHRI RAMA KANTA PANDA, VICE PRESIDENT
AND
SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.1204/PUN./2023
Assessment Year 2017-2018

Cosmopolis Construction, Office No.1-5, Millennium Star, Dhole Patil Road, PUNE-411 001. Maharashtra. PAN AAAAC3785B	vs.	The DCIT, Central Circle-1(3), Aayakar Sadan, Bodhi Towers, 548/2B, Salisbury Park, Gultekdi, Pune – 411 037. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	CA Rajiv Thakkar
For Revenue :	Shri Ramnath P. Murkunde

Date of Hearing :	22.04.2024
Date of Pronouncement :	25.04.2024

ORDER

PER SATBEER SINGH GODARA, J.M. :

This Revenue's appeal for assessment year 2017-18, arises against the CIT(A), Pune-11, Pune's Din and Order No. ITBA/APL/S/250/2023-24/10561933384(1), dated 18.09.2023, involving proceedings u/s.270A of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. Coming to the assessee's sole substantive grievance challenging correctness of both the learned lower authorities action imposing sec.270A(8) and (9) penalty of Rs.10,38,976/-; thereby holding it to have "under-reported" income as a

“consequence of mis-reporting”; learned DR vehemently supported the same on the ground that the taxpayer herein has been found not to have disclosed its interest income of Rs.14,61,904/- representing interest on income tax refunds; during the course of quantum assessment.

3. We have given our thoughtful consideration to the assessee's pleadings and Revenue's vehement arguments. We find no reason to sustain the impugned penalty on merits itself. More particularly, in light of the material available in assessee's paper book running into 79 pages. We find from the assessee's corresponding audited books [including P & L A/c] at pages 10 to 22 read with details of indirect incomes as well as the ledger(s) that it had duly included the foregoing interest of Rs.14,61,903.67/- in the indirect income head of Rs.15,16,593.67/- duly forming part of the computation submitted in quantum proceedings.

3.1. Mr. Murkude at this stage vehemently argued that the learned lower authorities may be directed to verify this alleged clinching fact. We see no reason to accept the Revenue's remand prayer once it is found that all these assessee's details duly form part of the case file all along right from the course of assessment to the impugned penalty proceedings. We also wish to quote hon'ble apex court's landmark decision in CIT vs. Reliance Petro Products [2010]

322 ITR 158 (SC) that quantum and penalty are parallel proceedings wherein any addition made in the course of former does not *ipso facto* attract latter provision. We accordingly find it a fit case to delete the impugned penalty of Rs.10,38,976/- in very terms. Ordered accordingly.

4. This assessee's appeal is allowed in above terms.

Order pronounced in the open Court on 25.04.2024.

Sd/-
[RAMA KANTA PANDA]
VICE PRESIDENT

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 24th April, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A), Pune-11, Pune.
4.	The Pr. CIT, Pune concerned
5.	D.R. ITAT, "A" Bench, Pune.
6.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,
Pune.