

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'D', NEW DELHI**

Before Dr. B. R. R. Kumar, Accountant Member,

Sh. Sudhir Kumar, Judicial Member

ITA No. 899/Del/2018 : Asstt. Year: 2010-11

DCIT, Circle-1(3)(1), International Taxation, New Delhi (APPELLANT)	Vs	Genpact Services LLC, DMRC, IT Park, Metro Station, GT Road, New Delhi-110053 (RESPONDENT)
PAN No. AACCG3353P		

Assessee by : Sh. Tarandeep Singh, Adv.

Revenue by : Ms. Banita Devi Naorem, CIT-DR

Date of Hearing: 05.06.2024

Date of Pronouncement: 06.06.2024

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the Revenue against the order of Id. CIT(A)-42, New Delhi dated 01.11.2017.

2. Following grounds have been raised by the Revenue:

"1. Whether on the facts and circumstances of the case, Ld. CIT(A) has erred in deleting the penalty imposed by the AO for Rs. 7,01,86,346/- and held that the appellant's explanations in the matter is bonafide and acceptable.

2. Whether on facts and circumstances of the case, Ld. CIT(A) erred in holding that the assessee did not file inaccurate particulars of income though it claimed expenditure incurred towards acquisition of collection and analytics Business from another company namely Genpact India as revenue expenditure; which was actually capital expenditure.

3. Whether on facts and circumstances of the case, the Ld. CIT(A) has erred in giving benefit of doubt to the assessee that expenditure on acquisition of business of another

company could be classified as revenue expenditure though the conduct the assessee shows that it was well aware of true nature of the expenditure."

3. In the entire grounds taken up by the Revenue, there was no mention of "Section 271(1)(c)" of the Income Tax Act, 1961.

4. At the outset, the Id. AR brought to our attention, the notice issued u/s 274 r.w.s. 271 of the Income Tax Act, 1961 dated 01.05.2014. The same is reproduced as under:

I.T.N.S.- 29

आयकर अधिनियम, 1961 की धारा 271 के साथ पढ़ी गई धारा 274 के अधीन नोटिस
NOTICE UNDER SECTION 274 READ WITH SECTION 271 OF THE INCOME TAX ACT, 1961

Income Tax Office, New Delhi

Dated: 21/5/14

To

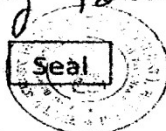
M/s Genpact Serv. LLC.
DMRC IT Park Metro Station.
GT. Road Delhi - 53.

Whereas in the course of proceedings before me the assessment year 2010-11 it appears to me that you: -

- *Have without reasonable cause failed to comply with a notice under section 142(1)/143(2) of the Income Tax Act, 1961 dated _____
- * Have concealed the particulars of your income or furnished inaccurate particulars of such income in terms of explanation 1,2,3,4, and 5.

You are hereby requested to appear before me at 12.00 A.M./P.M. on 10/6/2014, and show cause why an order imposing a penalty on you should not be made under section 271 of the Income Tax Act, 1961. If you do not wish to avail yourself of this opportunity of being heard in person or through authorized representative you may show cause in writing on or before the said date which will be considered before any such order is made under section 271.

Penalty remaining u/s 271 (1)(c)



Assessing Officer
Asstt. Director of Income Tax
Circle-1(2) (International Taxation)
Room No. 410, 4th Floor, E-2 Block,
Pratyaksh Kar Bhawan, Connaught Place,
J. L. Nehru Marg, New Delhi-110002

*Delete inappropriate words and paragraphs.

5. From the perusal of the notice, we find that the ADIT omitted to delete in appropriate words and paragraphs and failed to specifically state, the limb on which the penalty was proposed.

6. On this issue, we are guided by the following judgments:

- 1) Karnataka High Court: CIT vs. Manjunatha Cotton and Ginning Factory: 359 ITR 565 held that notice under section 274 should specifically state the grounds mentioned in section 271(1)(c) of the Act, i.e., whether it is for concealment of income or for furnishing of incorrect particulars of income. Sending printed form where all the grounds mentioned in section 271 are mentioned would not satisfy requirement of law.
- 2) Bombay High Court: Mr. Mohd. Farhan A. Shaikh Vs ACIT Section 271(1)(c): Penalty-Concealment-Non-striking off of the irrelevant part while issuing notice u/s 271(1)(c) of the Income Tax Act, order is bad in law. Assessee must be informed of the ground of the penalty proceedings only through statutory notice. An omnibus notice suffers from the vice of vagueness.
- 3) The Hon'ble jurisdictional Delhi High Court in the case of PCIT vs. Sahara India Life Insurance Co. Ltd. in ITA No. 475 of 2019, reiterated that notice under section 274 should specifically state the grounds on which penalty was sought to be imposed as the assessee should know the grounds which he has to meet specifically.

4) The aforesaid principle has been reiterated in the in the case of CIT vs. SSA'S Emerald Meadows: 73 taxmann.com 241 (Kar) [Revenue's SLP dismissed in 242 Taxman 180]

7. Hence, respectfully following the order of the Hon'ble Jurisdictional High Court, since the AO has not been specified u/s 274 as to whether penalty is proposed for alleged 'concealment of income' OR 'furnishing of inaccurate particulars of such income', the penalty levied is hereby obliterated.

8. In the result, the appeal of the Revenue is dismissed.
Order Pronounced in the Open Court on 06/06/2024.

Sd/-

(Sudhir Kumar)
Judicial Member

Dated: 06/06/2024

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR