

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं  
श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1211/Chny/2023  
निर्धारण वर्ष/Assessment Year: 2013-14

Shri Balasingam Somasundaram, No.34-35, Tatabad, 1 <sup>st</sup> Street, Dr.Sivanandha Nagar, Tatabad S.O., Coimbatore-641 012.	v.	The Asst. Commissioner- of Income Tax, Central Circle-1, Coimbatore.
[PAN: BAKPS 6990 L]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri S. Sridhar, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Shri P. Sajit Kumar, JCIT
सुनवाईकीतारीख/Date of Hearing	:	22.05.2024
घोषणाकीतारीख /Date of Pronouncement	:	05.06.2024

**आदेश / ORDER**

**PER ABY T. VARKEY, JM:**

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)-20, (hereinafter 'the Ld.CIT(A)'), Chennai, dated 26.09.2023 for the Assessment Year (hereinafter 'AY') 2013-14.



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**2.** The main grievance of the assessee is against action of the Ld.CIT(A) confirming the penalty levied by the AO u/s.271(1)(c) of the Income Tax Act, 1961 (hereinafter in short "the Act"). The brief facts are that the assessee, an individual is involved in Real estate business and has filed his return of income for AY 2013-14 on 23.03.2015 disclosing Rs.39,00,000/- as total income. A survey u/s.133A of the Act was conducted in the business premises of the assessee on 13.08.2018. During course of survey, some bank accounts containing business transactions which were not disclosed in return of Income filed for the relevant year were found. Consequently, the case was reopened by issuing notice u/s.148 of the Act on 31.03.2021. In response, the assessee filed his return of income on 16.04.2021 admitting income of Rs.36,30,130/- which the AO noted was lesser than income admitted in original return. And thereafter, assessment for AY 2013-14 in the assessee's case was completed u/s.143(3) r.w.s 147 of the Act on 19.03.2022 by estimating income of assessee at 8% of undisclosed gross receipts Rs.10,21,34,917/- which worked out to Rs.81,70,793/- and thereby AO, made an addition of Rs.45,20,661/- to the income returned. Penalty proceedings u/s.271(1)(c) of the Act was initiated for furnishing inaccurate particulars of income and penalty of Rs.13,96,884/- was levied u/s.271(1)(c) of the Act.



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**3.** Aggrieved, the assessee preferred an appeal before the Ld.CIT(A), who partly allowed the appeal by restricting the penalty at Rs.9,13,610/-. Aggrieved, the assessee is in appeal before this Tribunal.

**4.** We have heard both the parties and perused the material available on record. The facts discussed supra are not repeated for the sake of brevity. The Ld.CIT(A) has noted that assessee has shown only gross receipts of Rs.9,07,14,781/-, whereas, it was found that there was a suppression of gross receipts of Rs.1,14,20,136/-. The Ld.CIT(A) had confirmed the penalty, but we note that penalty u/s 271(1)(c) cannot be sustained because there is no satisfaction recorded by AO in the assessment order dated 19.03.2022 as required u/s 271 (1) of the Act as well as bearing in mind the fact that quantum addition was purely on estimated basis with inherent subjectivity involved, penalty be deleted. Therefore, we direct the deletion of the penalty confirmed by the Ld.CIT(A) at Rs.9,13,610/-.

**5.** In the result, appeal filed by the assessee allowed.

Order pronounced on the 05<sup>th</sup> day of June, 2024, in Chennai.

**Sd/-**  
(अमिताभ शुक्ला)  
**(AMITABH SHUKLA)**  
लेखा सदस्य/**ACCOUNTANT MEMBER**

**Sd/-**  
(एबी टी. वर्की)  
**(ABY T. VARKEY)**  
न्यायिक सदस्य/**JUDICIAL MEMBER**



ITA No.1211/Chny/2023 (AY 2013-14)  
Shri Balasingam Somasundaram

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चेन्नई/Chennai,  
दिनांक/Dated: 05<sup>th</sup> June, 2024.  
**TLN, Sr.PS**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF