

**आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE**

**BEFORE SHRI R.K. PANDA, VICE PRESIDENT**  
**AND**  
**SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER**

**आयकर अपील सं. / ITA No.1328/PUN/2023**  
**निर्धारण वर्ष / Assessment Year : 2020-21**

Kasat Prakash M (HUF), MCL 40 1233, Shriniwas, Near Kore Garden Moti Nagar, Latur - 413512  PAN : AAHHK3252P	<b>Vs.</b>	ITO, Ward - 1, Nanded
<b>अपीलार्थी / Appellant</b>		<b>प्रत्यर्थी / Respondent</b>

Assessee by :	Shri Girish Ladda
Department by :	Shri Ramnath P. Murkude
Date of hearing :	06-06-2024
Date of Pronouncement :	19-06-2024

**आदेश / ORDER**

**PER S.S. GODARA, JM :**

This assessee's appeal for assessment year 2020-21 arises against the National Faceless Appeal Centre (NFAC), Delhi's order dated 27.11.2023, passed in DIN & Order No. ITBA/NFAC/S/250/2023-24/1058245717(1), in proceedings u/s. 250 of the Income Tax Act, 1961; in short "the Act".

Heard both the parties at length. Case file perused.

2. It emerges at the outset that the assessee's instant appeal raises the first and foremost legal issue of the validity of the impugned section 270A penalty proceedings itself for the precise reason that the Assessing Officer relevant show cause notice dated 19.09.2022 nowhere specified the

corresponding limbs in clauses (a) to (f) to sub-section 9 read with sub-section (8) thereof. His case in other words is that the Assessing Officer has failed to comply with the rigor of section 270A(8) and (9) (a to f) before concluding that the assessee committed any default of under-reporting of income as a consequence to misreporting.

3. Learned DR vehemently argued that the instant issue is no more res-integra in light of the hon'ble jurisdictional high court recent decision in M/s. Veena Estate Pvt. Ltd. Vs. CIT (2024) 158 taxmann.com 341 (Bombay) rejecting a similar plea in section 260A proceedings. Mr. Murkunde further sought to buttress the point that the learned lower authorities have duly considered the assessee's explanation(s) in the penalty order as well as in the impugned lower appellate discussion and therefore, it could not be taken as a case wherein any prejudice would be held to have been caused to him.

4. We have given our thoughtful consideration to the assessee's forgoing legal issue raised in the instant appeal that the impugned penalty proceedings stand vitiated on account of the Assessing Officer's failure to pinpoint the relevant clauses (a) to (f) to sub-section (9); while initiating the proceedings herein u/s. 270A(8) of the Act, thereby alleging under reporting of income as a sequence of misreporting. Faced with this situation, we find no merit in Revenue's arguments placing reliance on M/s. Veena Estate Pvt. Ltd. (supra) once the issue before their lordships was that of the concerned appellant seeking to frame an additional substantial question of law in section 260A proceedings whereas the law regarding the tribunal's jurisdiction to entertain such a pure question of law, not requiring any further detailed investigation on facts, is already settled in NTPC Ltd. Vs. CIT (1998) 229 ITR 383 (SC). That being the case,

we are of the considered view that going by the foregoing judicial precedent, this tribunal is very much entitled to entertain and decide such a pure legal plea for the first time in section 254(1) proceedings. We accordingly reject the Revenue's instant technical arguments to conclude in light of section 270A (8) & (9) r.w. clauses (a to f) that the learned Assessing Officer's failure to pinpoint the corresponding default of assessee's part indeed vitiates the entire proceedings as per (2022) 443 ITR 186 (Del) Schneider Electric South Asia Ltd. Vs. ACIT (in the new scheme) and Md. Farhan S.A. Vs. ACIT (2021) 434 ITR 1 (Bom.) in section 271(1)(c) old penal provision. We order accordingly. The impugned penalty of Rs.15,54,736/- stands deleted in very terms.

5. This assessee's appeal is allowed.

**Order pronounced in the open court on 19<sup>th</sup> June, 2024.**

Sd/-  
(R.K. Panda)  
**VICE PRESIDENT**

Sd/-  
(Satbeer Singh Godara)  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 19<sup>th</sup> June, 2024.

रवि

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune