

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1581/Chny/2023
निर्धारण वर्ष/Assessment Year: 2001-02

Shri Thunga Ramadoss Naidu- Harikrishniah, No.55, 4 th Flat, Door No.4, Gajapathi Street, Shenoy Nagar, Chennai-600 030.	v.	The Dy. Commissioner – of Income Tax, Central Circle-2(2), Chennai.
[PAN: AAAPH 6730 N]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri K.S.Lakshminarayanan, FCA
प्रत्यर्थी की ओर से /Respondent by	:	Dr.D.Praveen, JCIT
सुनवाईकीतारीख/Date of Hearing	:	16.05.2024
घोषणाकीतारीख /Date of Pronouncement	:	25.06.2024

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)-16, (hereinafter in short 'the Ld.CIT(A)'), Chennai, dated 27.10.2023 for the Assessment Year (hereinafter in short 'AY') 2001-02, wherein, the Ld.CIT(A) partly confirmed action of the AO levying penalty u/s.271(1)(c) of the Income Tax Act, 1961 (hereinafter in short 'the Act').



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2. At the outset, the Ld.AR pointed out that the Ld.CIT(A) has partly allowed the penalty appeal of the assessee, since, in the quantum appellate order passed on 27.10.2023, part-relief had been granted. The Ld.AR submitted that it is well settled that the penalty proceedings are distinct from assessment proceedings and that both are independent proceedings and that mere confirmation of additions in quantum proceedings cannot per-se, lead to confirmation of penalty; and that the assessee is at liberty to lead fresh evidence during penalty proceedings to prove that there was neither concealment of particulars of income nor furnished any inaccurate particulars of income. Further, according to the Ld.AR, the first condition before initiating penalty by AO under sub-clause (c) of sub-section (1) of section 271 of the Act is to record his satisfaction in the course of assessment proceedings that any person has concealed the particulars of his income or furnished inaccurate particulars of such income, then the AO has to issue proper notice making it clear the specific fault committed by assessee and give proper opportunity u/s 274 of the Act and then levy penalty. Thus, according to him, the penalty proceedings have their foundation in the assessment order. However, in this case, according to the Ld.AR, the AO has not made any mention about his satisfaction of initiating penalty proceedings against the assessee [in the assessment order dated 15.03.2004] for the faults as stated in sec.271(1)(c) of the Act (supra); and has merely made an



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endorsement in the last line of assessment order that penalty proceedings are initiated separately, which action of AO will not suffice to initiate validly penalty u/s.271(1)(c) of the Act against the assessee. We find force in the submission of Ld AR and find that in the assessment order passed u/s 143(3) of the Act dated 15.03.2004, the AO has not recorded his satisfaction in the course of assessment proceedings/order that he was satisfied that assessee has concealed the particulars of his income or furnished inaccurate particulars of such income. Omission to record his satisfaction about assessee having committed the faults as given in clause (c) of section 271(1) of the Act, vitiates the penalty levied on assessee dated 30.09.2004. Therefore assessee succeeds and the penalty levied by AO of Rs 3,36,715/-, which has been partly deleted by Ld CIT(A), stands fully deleted.

3. In the result, appeal filed by the assessee is allowed.

Order pronounced on the 25th day of June, 2024, in Chennai.

Sd/-
(मनोज कुमार अग्रवाल)
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य/**ACCOUNTANT MEMBER**

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

चेन्नई/Chennai,
दिनांक/Dated: 25th June, 2024.
TLN, Sr.PS



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आदेश की प्रतिलिपि अग्रेषित/Copy to:

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