

**आयकर अपीलीय अधिकरण “ए” न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“A” BENCH, CHENNAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI MAHAVIR SINGH, VP AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकर अपील सं. ITA No.398/Chny/2024**  
**(निर्धारण वर्ष / Assessment Year: 2016-17)**

<b>Ms. Sagayavincnt Susai Mary</b> C-20, NKR Pillai Street, Block-2, Neyveli-607 801.	<b>बनम/</b> <b>Vs.</b>	<b>ITO</b> Ward-4 Cuddalore.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. <b>APAPS-7578-C</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकी ओरसे/ <b>Appellant by</b>	:	Shri S.Sridhar (Advocate)- Ld.AR
प्रत्यर्थीकी ओरसे/ <b>Respondent by</b>	:	Shri AR V Sreenivasan (Addl.CIT) -Ld. DR

सुनवाईकी तारीख/ <b>Date of Hearing</b>	:	04-07-2024
घोषणाकी तारीख / <b>Date of Pronouncement</b>	:	10-07-2024

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aggrieved by confirmation of penalty u/s 271(1)(c) for Rs.1.43 Lacs for Assessment Year (AY) 2016-17, the assessee is in further appeal before us. The impugned order has been passed by learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] on 31-12-2023 in the matter of penalty levied by Ld. Assessing Officer [AO] u/s. 271(1)(c) of the Act on 22-09-2022. Having heard rival submissions, the appeal is disposed-off as under.

2. It emerges that the assessee, in the regular return of income,

claimed deduction under Chapter-VIA for Rs.3.66 Lacs and loss under the head Income from House Property for Rs.4.25 Lacs. The case was reopened wherein the assessee revised House Property loss to Rs.0.49 Lacs and revised deduction under Chapter-VIA to Rs.1.51 Lacs. It was also noted that the assessee suppressed salary to the extent of Rs.1.87 Lacs. Accordingly, Ld. AO proceeded to levy impugned penalty u/s 271(1)(c). In defense, the assessee submitted that finding the information to be incorrect in regular return, the assessee immediately repaid the refund along with interest. However, rejecting the same, Ld. AO levied penalty of Rs.1.43 Lacs.

3. During appellate proceedings, the assessee submitted that return of income was filed through a tax consultant who claimed excessive deduction. The refund was issued to the assessee on 22-01-2019. On knowing about the details of wrongful claims made, the assessee immediately refunded the tax refund on 25-03-2019. Subsequently, notice u/s 148 was issued on 31-03-2021 wherein correct income was admitted which was accepted. The assessee stressed the point that he immediately refunded the tax refund with interest as soon as he came to know about the credit of the same in the bank account. It was also stated that the belated return was filed by the Tax consultant and the assessee was not aware of additional / wrong claim made by him in the return of income. However, Ld. CIT(A) chose to confirm the penalty against which the assessee is in further appeal before us.

4. The material facts are not in dispute. It is quite clear that the assessee made certain wrong claims in the regular return of income which were corrected in return of income filed during reassessment proceedings. However, it could be noted that notice u/s 148 was issued

on 31-03-2021. The refund in regular return was received by the assessee on 22-01-2019. The perusal of Form 26AS, as placed on record, would show that the assessee has refunded the amount on 25-03-2019 which is well before any adverse action taken by the department. The same would show certain bona-fide on the part of the assessee. Therefore, in our opinion, this is not a fit case for levy of impugned penalty. We order so.

5. The appeal stand allowed.

*Order pronounced on 10<sup>th</sup> July, 2024*

*Sd/-*  
**(MAHAVIR SINGH)**  
उपाध्यक्ष / **VICE PRESIDENT**

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

चेन्नई Chennai; दिनांक Dated :10-07-2024

*DS*

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

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