



**।आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणेमें।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**PUNE BENCHES "B" :: PUNE**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL**  
**MEMBER AND**  
**DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER**

**आयकर अपील सं. / ITA No.181/PUN/2024**  
**निर्धारण वर्ष / Assessment Year: 2015-16**

Vijay Bhagchand Bafna, Plot No.39, shri Krishna Colony, Shirpur, Dist: Dhule- 425405. Maharashtra.  PAN: AAMPB2217J	V s	The DCIT, Circle-Dhule, Dhule
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Vinay Kawdia – AR(Virtual Appearance)
Revenue by	Shri Sourabh Nayak – Addl.CIT(DR)
Date of hearing	30/07/2024
Date of pronouncement	30/07/2024

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

This is an appeal filed by the assessee i.e. Vijay Bhagchand Bafana against the order of Id.Commissioner of Income Tax(Appeals), [NFAC] u/sec.250 of the Income Tax Act, dated 30.11.2023 for A.Y.2015-16 emanating from the penalty order u/sec.271(1)(c) of the Act, dated 25.03.2019.



**Findings & Analysis :**

2. We have heard both the parties and perused the records. For the A.Y.2015-16 assessee has filed Return of Income electronically on 29.04.2016 declaring total income of Rs.23,93,238/-. The Assessing Officer(AO) received information that assessee had purchased agricultural land at Survey No.4/1A, Shirpur for Rs.36,00,000/- along with three other persons, but Government Valuation of said land was Rs.65,67,000/-. The AO issued noticed u/sec.148 on the ground that income has escaped assessment as per section 56(2)(vii)(b) of the Act. The assessee filed Return of Income in response to notice u/sec.148 of the Act showing income at Rs.31,15,120/-. The assessment was completed accepting returned income. The AO levied penalty u/sec.271(1)(c) vide order dated 25.03.2019. The only issue is difference of actual amount paid by assessee for the purchase of agricultural land and the Government Valuation, the AO held that there was a deemed income as per Section 56(2)(vii)(b) of the Act of Rs.7,41,750/-, though the assessee had offered Rs.7,41,750/- in the Return of Income filed u/sec.148 of the Act. Thus, in fact there was no addition in the assessment order passed u/sec.148 of the Act, as



assessee had already offered the difference of Rs.7,41,750/- in the Return of Income filed u/sec.148 of the Act. During the Assessment Proceedings, assessee filed a Valuation Report issued by Sub-Registrar dated 27.08.2018 showing value at Rs.37,44,900/- of the impugned property.

3. Penaly u/sec.271(1)(c) of the Act cannot be levied on the ground that there was difference in Government Valuation and actual amount paid. In this case, assessee had disclosed all the facts before the AO. Assessee has not concealed any information. There is no addition in the Assessment Order, rather the Sub-Registrar vide letter dated 27.08.2018 valued the said property at Rs.37,44,900/-. Thus, there is dispute in the valuation of Sub-Registrar.

3.1 The Hon'ble Bombay High Court in the case of Ventura Textiles Ltd Vs. CIT [2020] 117 taxmann.com 182 (Bombay) has held as under :

*Quote"33. In Reliance Petroproducts (P.) Ltd. (supra), Supreme Court examined meaning of the words 'particulars' and 'inaccurate'. As per Law Lexicon, the word 'particulars' means 'detail or details; the details of a claim or the separate items of an account'. Therefore, it was held that the word 'particulars' used in section 271(1)(c) of the Act would embrace the meaning of the details of the claim made. Referring to Webster's Dictionary where the word 'inaccurate' has*



*been defined as 'not accurate, not exact or correct; not according to truth; erroneous; as an inaccurate statement, copy or transcript', Supreme Court held that the two words i.e., 'inaccurate' and 'particulars' read in conjunction must mean that the details supplied in the return are not accurate, not exact or correct, not according to truth or erroneous. It was held that mere making of a claim which is not sustainable in law by itself would not amount to furnishing inaccurate particulars regarding the income of the assessee. Therefore, such claim made in the return cannot amount to furnishing inaccurate particulars of income. Elaborating further, Supreme Court held that if such stand of the Revenue was accepted then in case of every return where the claim made is not accepted by the Assessing Officer for any reason, the assessee will invite penalty under section 271(1)(c) of the Act which is clearly not the intendment of the Legislature.*

*34. This decision was followed by this Court in CIT v. Mansukh Dyeing & Printing Mills [2013] 38 taxmann.com 242/219 Taxman 91 (Bom.). In CIT v. DCM Ltd. [2013] 37 taxmann.com 447/359 ITR 101, Delhi High Court applied the said decision of the Supreme Court and further observed that law does not debar an assessee from making a claim which he believes is plausible and when he knows that it is going to be examined by the Assessing Officer. In such a case a liberal view is required to be taken as necessarily the claim is bound to be carefully scrutinised both on facts and in law. Threat of penalty cannot become a gag and/or haunt an assessee for making a claim which maybe erroneous or wrong. Again, in CIT v. Shahabad Co. Operative Sugar Mills Ltd. [2010] 332 ITR 73, Punjab & Haryana High Court held that making of wrong claim is not at par with concealment or giving of inaccurate information which may call for levy of penalty under section 271(1)(c) of the Act.*

*35. Reverting back to the present case it is quite evident that assessee had declared the full facts; the full factual matrix or facts were before the Assessing Officer while passing the assessment order. It is another matter that the claim based on such facts was found to be inadmissible. This is not the same thing as furnishing inaccurate particulars of income as contemplated under section 271(1) (c) of the Act.” Unquote*

3.2 Therefore, respectfully following the Hon’ble Bombay High Court(supra), penalty u/sec.271(1)(c) is not maintainable. Accordingly, the Assessing Officer is directed to delete the penalty



u/sec.271(1)(c) of the Act. Accordingly, grounds of appeal raised by the assessee are allowed.

4. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 30<sup>th</sup> July, 2024.

Sd/-  
(S.S.GODARA)  
JUDICIAL MEMBER

Sd/-  
(DR. DIPAK P. RIPOTE)  
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 30<sup>th</sup> July, 2024/ SGR\*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, "बी" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.