

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "A" BENCH

**Before: Ms. Suchitra Kamble, Judicial Member
And Shri Makarand V. Mahadeokar , Accountant Member**

**ITA No. 903/Ahd/2024
Assessment Year 2020-21**

Ashiyabanen Nazirbhai Kaliwala , Bhavnagar PAN: AGCPK2177N (Appellant)	Vs	The ACIT, Central Circle-1(1), Ahmedabad (Respondent)
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**Assessee by: Shri Sarju Mehta, A.R.
Revenue by: Shri Veerbadram Vislavath, Sr. D.R.**

Date of hearing : 16-10-2024
Date of pronouncement : 29-10-2024

आदेश/ORDER

PER : SUCHITRA KAMBLE, JUDICIAL MEMBER:-

This is an appeal filed against the order dated 08-04-2024 passed by Id. CIT(A)-11, Ahmedabad for assessment year 2020-21.

2. The grounds of appeal are as under:-

- “1. The CIT (A) has erred in law and on facts by issuing the impugned order which is not reasoned one and without dealing with pleas raised by the appellant.*
 - 2. The CIT (A) has erred in law and on facts by not accepting the plea of the Appellant that the Penalty Order under subject matter issued by the Assessing Officer is bad in law as there is no finding or no text were incorporated in the Issued Order.*
 - 3. The CIT (A) has erred in law and on facts in upholding the Ld. AO's action of imposing penalty on income declared by the appellant in the revised return filed u/s 139(5) towards unaccounted jewellery.*
 - 4. Your Appellant reserves the right to add, alter, amend and withdraw any of the above grounds of appeal.”*
3. The assessee is an individual and filed original return dated 21-09-2020 thereby declaring total income at Rs. 47,12,550/- and revised return dated 30-01-2021 with total income of Rs. 1,13,31,690/-. A search was conducted at premises of assessee on 19-11-2019 where no statement of the assessee was taken at any stage of the investigation in the case under consideration. Notice u/s. 143(2) was issued on 27-02-2021. Thereafter, notice u/s. 142(1) was issued on 31-08-2021 and after that show cause notice was issued on 11-09-2021. The assessee submitted the reply to all the questions. The Assessing Officer passed assessment order thereby making addition of Rs. 21,97,669/-. After issuance of the said assessment order, the Assessing Officer initiated penalty proceedings and issued the show cause notice to the assessee. The assessee made statements on various dates. The Assessing Officer passed the assessment order u/s. 271AAB of the Income Tax Act, 1961 dated 30-03-2022 thereby giving a blank order except that mentioning in the title amount penalty of Rs. 52,90,058/-.

4. Being aggrieved by the penalty order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Id. A.R. submitted that the penalty order dated 30-03-2022 was passed without mentioning a sentence related to the assessee's initial assessment order or that of the initiation of the penalty order u/s. 271AAB of the Income Tax Act, 1961 and thus it is blank penalty order and therefore only mentioning in column 6 about penalty amounting to Rs. 52,90,085/- is not justifiable and it is not an order as per the Income Tax Statute.

6. The Id. D.R. relied upon the assessment order and the order of the CIT(A).

7. We have heard both the parties and perused all the relevant materials available on record. The CIT(A) after taking cognizance of the blank penalty order issued u/s. 271AAB(ia)(b) of the Act has called for remand report from the Assessing Officer and has confirmed the penalty. The said submissions on A.O.'s comments dated 13-09-2023 and 12-09-2023 categorically mentions that it was a draft penalty order proposing penalty of Rs. 52,90,085/- which was proposed on 16-03-2022 and was approved vide letter dated 19-03-2023 but the draft penalty order as per the penalty imposed u/s. 271AAB of the Act. From the perusal of the order u/s. 271AAB which has not mentioned a single sentence or has not given any details as well as reasons cannot be improved afterwards by filing the submission's of A.O.'s comments before the CIT(A) and thus the imposition of penalty has mentioned in the column 6 of order dated 30-03-2012 is not a

penalty order as per the income tax statute related to penalty. Thus, the penalty imposed as per column (6) order dated 30-03-2022 is not justifiable, hence appeal of the assessee is allowed.

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

Order pronounced in the open court on 29-10-2024

Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER
Ahmedabad : Dated 29/10/2024

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद