

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH : NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER
AND
SHRI KHETTRA MOHAN ROY, ACCOUNTANT MEMBER

ITA.No.389/NAG./2024
Assessment Year 2016-2017

Salilkumar Mahukarrao Majgaonkar, 81, Hill Road, Ramnagar, NAGPUR-440 010. Maharashtra. PAN ACAPM4630Q	vs.	The Income Tax Officer, Ward-1(3), BSNL RTTC Bldg., Seminary Hills, NAGPUR - 440 006. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	MS. Veena Agrawal, C.A.
For Revenue :	Shri Abhay Y. Marathe, Sr. DR

Date of Hearing :	27.01.2025
Date of Pronouncement :	28.01.2025

ORDER

PER V. DURGA RAO, J.M. :

This appeal has been filed by the assessee against the order dated 30.04.2024 of the learned CIT(A)-National Faceless Appeal Centre [in short "NFAC"], Delhi, relating to assessment year 2016-2017.

2. Facts of the case, in brief, are that the assessee is an individual and filed the return of income on 31.03.2018 declaring income at Rs.7,79,010/-. Subsequently, the case of the assessee was

selected for scrutiny under CASS. During the course of assessment proceedings, the Assessing Officer noted that assessee has sold two flats and total consideration received for two flats was Rs.1,85,00,000/- [Rs.1,05,00,000/- + Rs.80,00,000/-]. Whereas the total turnover shown by the assessee was Rs.1,45,00,000/-. The Assessing Officer issued statutory notices u/sec.143(2) and 142(1) to the assessee and in response to the said notices, the assessee furnished all the requisite details from time to time. However, the Assessing Officer was not satisfied with the explanation offered by the assessee and determined the total income of the assessee at Rs.14,26,912/- by making addition of Rs.6,47,902/- on account of concealment of book profit and levied minimum penalty of Rs.1,79,756/- @100% of the tax sought to be evaded.

3. Against the said penalty order of the Assessing Officer, the assessee carried the matter in appeal before the learned CIT(A) and the learned CIT(A) confirmed the order of the Assessing Officer in levying penalty of Rs.1,79,756/- by observing that assessee has miserably failed to furnish satisfactory explanation during the course of penalty proceedings and assessment proceedings also.

3. Aggrieved by the order of the learned CIT(A), the assessee is in appeal before the Tribunal.

4. Learned Counsel for the Assessee, during the course of hearing, submitted that the assessee was a captain in Merchant Navy and most of the time he was not in India and was busy in looking after his ailing cancer father during the stop gap period. She submitted that assessee had neither concealed the income nor furnished in accurate particulars of income and, therefore, the impugned penalty levied by the Assessing Officer and confirmed by the learned CIT(A) be cancelled.

4. The Learned DR on the other hand relied on the orders of the lower authorities.

5. We have heard the rival submissions of both the parties and perused the material on record. We find that Assessing Officer has not given any reasons during the course of assessment proceedings and while initiating penalty proceedings also. In appeal, the learned CIT(A) also confirmed the penalty levied by the Assessing Officer without appreciating the facts of the case and the explanation offered by the assessee. We find that the assessee has neither concealed the particulars of income nor furnished in accurate

particulars of income which warrants the impugned penalty @ 100%. We, therefore, delete the impugned penalty confirmed by the learned CIT(A) and accordingly, the grounds of appeal of the assessee are allowed.

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

Order pronounced in the open Court on 28.01.2025.

Sd/-
(KHETTRA MOHAN ROY)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Nagpur, Dated 28th January, 2025

VBP/-

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1.	The appellant
2.	The respondent
3.	The CIT(A), Nagpur concerned
4.	The CIT, Nagpur concerned
5.	The D.R. ITAT, Nagpur Bench, Nagpur
6.	Guard File.

//By Order//

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Sr. Private Secretary : ITAT : Nagpur Bench
NAGPUR.