

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER**

**ITA No.2204/PUN/2024
Assessment year : 2016-17**

Srijan Control Drives Unit No.25, 2 nd Floor, Elect Coop. Est. Ltd., Pune Satara Road, Pune – 411009 PAN: AAHFS1104Q (Appellant)	Vs.	DCIT, Circle 5, Pune (Respondent)
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Assessee by : Shri Kishor B Phadke
Department by : Shri Arvind Desai, Addl CIT DR
Date of hearing : 26-03-2025
Date of pronouncement : 21-04-2025

ORDER

PER R. K. PANDA, VP :

This appeal filed by the assessee is directed against the order dated 24.08.2024 of the Ld. CIT(A) / NFAC, Delhi relating to assessment year 2016-17.

2. Facts of the case, in brief, are that the assessee is a partnership firm and engaged in the business of manufacturing of stepper motor. It filed its original return of income on 15.10.2016 declaring total income of Rs.8,24,340/-. The Assessing Officer completed the assessment u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on 11.12.2018. Subsequently, the case was reopened by the JAO u/s 147 of the Act on the ground that the assessee has claimed excess carry forward of loss amounting to Rs.22,49,410/-. During the

course of re-assessment proceedings the assessee submitted that it has paid rent to the party Universal Transducers at Rs.7,80,000/- which was not claimed in the Profit and Loss Account and the same was parked in Current Assets in the Balance Sheet. In order to make this correction the assessee filed its revised return of income on 28.02.2018. However, while revising the return of income, deduction of Rs.7,80,000/- being rent paid to Universal Transducers was claimed and remuneration and interest paid to the partners which is Rs.7,10,648/- and Rs.15,83,107/- respectively was claimed twice and instead of claiming the correct loss, the assessee claimed loss of Rs.22,49,410/-. During the re-assessment proceedings the assessee realized that remuneration and interest paid to the partners at Rs.22,49,410/- was claimed twice by mistake. Hence, the said expenses were disallowed by the assessee while filing the return in response to the notice u/s 148 of the Act. Since the assessee rectified this mistake only during the course of reopening proceedings and not voluntarily, the Assessing Officer initiated penalty proceedings u/s 271(1)(c) of the Act. Rejecting the various explanations given by the assessee, the Assessing Officer levied penalty of Rs.7,08,770/- being 100% of tax sought to be evaded.

3. In appeal the Ld. CIT(A) / NFAC confirmed the penalty so levied by the Assessing Officer.

4. Aggrieved with such order of the Ld.CIT(A) / NFAC, the assessee is in appeal before the Tribunal by raising the following grounds:

1. *The CIT(A) NFAC erred in law and facts in upholding the penalty imposed by the learned AO u/s 271(1)(c) of ITA, 1961 amounting to Rs. 7,08,770/- without appreciating that the mistake of double deduction of Rs. 22,93,755 (ie. interest Rs. 15,83,107 and remuneration-Rs. 7,10,648) was a bonafide error.*
2. *Learned CIT(A) erred in law and on facts in confirming the penalty wherein the learned AO initiated the concealment penalty proceedings for Limb-2 (i.e. furnishing of inaccurate particulars) and levying the concealment penalty on Limb-1 (i.e. concealment of particulars of income). The appellant contends that such a mismatch is fatal to the levy of penalty.*
3. *Learned CIT(A) erred in levying a concealment penalty without appreciating that, all relevant particulars related to the computation of income were duly available on record. The appellant contends that the particulars of income were never concealed.*
4. *Learned IT Authorities further erred in law and on facts in not appreciating that, such a double deduction of interest and remuneration to partners was not in keeping with section 40(b) of ITA, 1961 read with the partnership deed of the Appellant. Learned AO-NFAC ought to have appreciated that, such a double deduction claim substantiates prima-facie nature of the mistake, which is much different than wilful concealment.*
5. *Appellant craves leave to add/ alter/delete/ modify, all/ any of the above grounds of appeal.*

5. The Ld. Counsel for the assessee at the outset submitted that in the original return of income the assessee has made correct claim, however, in the revised return of income filed there was an inadvertent error which the assessee rectified during the course of re-assessment proceedings. He submitted that the mistake was a bonafide one and not deliberate and it is a human error. He submitted that mere mistake in making of a claim in the return of income would not *ipso facto* reflect the furnishing of inaccurate particulars of income in terms of section 271(1)(c) of

the Act. He submitted that the assessee has substantiated as to why the mistake has happened which was a genuine human error. The Ld. Counsel for the assessee further submitted that the loss, which was claimed in the revised return was not carried forward and no benefit of the loss was availed in future years. This itself shows that there was no malafide intention to furnish inaccurate particulars of income or there was an intention to evade the taxes or take any undue benefit. Relying on various decisions including the decision of the Hon'ble Supreme Court in the case of CIT vs. Reliance Petroproducts Pvt. Ltd. reported in 322 ITR 158 (SC), he submitted that the penalty levied by the Assessing Officer and sustained by the Ld. CIT(A) / NFAC was not justified.

6. The Ld. DR on the other hand heavily relied on the orders of the Assessing Officer and the Ld. CIT(A) / NFAC.

7. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and Ld. CIT(A) / NFAC and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. It is an admitted fact that the assessee in the revised return had claimed remuneration and interest paid to the partners amounting to Rs.7,10,648/- and Rs.15,83,107/- respectively twice which was rectified only in the return filed in response to the notice issued u/s 148 of the Act. We find the Assessing Officer levied the penalty u/s 271(1)(c) of the Act on the amount of Rs.22,49,410/- which

has been upheld by the Ld. CIT(A) / NFAC. It is the submission of the Ld. Counsel for the assessee that the assessee has inadvertently claimed the remuneration and interest paid to the partners twice which was rectified in the return filed in response to the notice u/s 148 of the Act and the assessee has not carried forward such loss to future years and there is no loss to the Revenue.

8. We find some force in the arguments of the Ld. Counsel for the assessee. It is an admitted fact that the very basis for levy of penalty is that the assessee has claimed excess carry forward loss amounting to Rs.22,49,410/-. However, a perusal of the computation statement shows that no such claim of carry forward of loss has been made by the assessee. What the assessee has done is that he has claimed the same without adding interest and remuneration paid to the partners and then claimed the same as has been done in the original computation of income. The assessee has inadvertently omitted to add the same in the revised return of income but claimed the salary and interest paid to the partners. We, therefore, find some force in the arguments of the Ld. Counsel for the assessee that it was an inadvertent human error and there is no deliberate attempt on the part of the assessee to evade taxes. It is also an admitted fact that the assessee has not claimed the benefit of carry forward of such loss on account of interest and remuneration paid to the partners. Under these circumstances, we are of the considered opinion that this is not a fit case for levy of penalty on account of human error. We, therefore, set aside the order of the Ld. CIT(A) / NFAC and delete the penalty

levied by the Assessing Officer. The grounds raised by the assessee are accordingly allowed.

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

Order pronounced in the open Court on 21st April, 2025.

Sd/-

(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-

(R. K. PANDA)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 21st April, 2025

GCVSR

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'B' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

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

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	11.04.2025		Sr. PS/PS
2	Draft placed before author	15.04.2025		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
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10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			