

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCH 'B', BANGALORE  
BEFORE SHRI S.K.YADAV, JUDICIAL MEMBER  
AND  
SHRI A. K. GARODIA, ACCOUNTANT MEMBER  
ITA No.667 (Bang) 2015  
(Assessment years : 2011 - 12)**

Shri K. Krishnamurthy,  
"Chowdeshwari Prasanna"  
No. 94, 1<sup>st</sup> main, 2<sup>nd</sup> Cross,  
Prashanth Extension,  
Hope far, Whitefield,  
Bangalore - 560066  
**PAN: AVXPK5376K**

Appellant

**Vs**

DCIT, Circle - 7(1),  
Bangalore

Respondent

**Assessee by : Shri Prathik, C. A.**

**Revenue by : Shri AR. V. Sreenivasan, JCIT**

**Date of hearing : 23-08-2016**

**Date of pronouncement: 17-10-2016**

**ORDER**

**PER A. K. GARODIA, A. M.:**

This is an assessee's appeal directed against the Order of CIT (A) - 4 Bangalore dated 04.03.2015 for A. Y. 2011 - 12.

2. The assessee has raised as many as 6 Grounds but the only grievance of the assessee is about penalty u/s 271AAA.

3. Learned AR of the assessee submitted that reliance was placed by the assessee on a tribunal order rendered in the case of DCIT vs. Pioneer marbles & Interiors Ltd. As reported in 19 Taxman.com 301 (Kol.) and contents of this tribunal order are reproduced by the CIT (A) on pages 13 to 15 of his order. He placed reliance on this tribunal order. Learned DR of the

revenue supported the orders of the authorities below. He also submitted that it is noted by CIT (A) in Para 6 of his order that the assessee has not made the payment of tax and interest even after penalty notice was issued and further time was allowed for payment of tax.

4. We have considered the rival submissions. We find that this is noted by the A. O. in the penalty order that the assessee has filed a letter dated 10.09.2013 requesting for time to make payment of taxes and time was granted till 30.09.2013 but the assessee did not pay taxes and under these facts, he imposed penalty u/s 271AAA. As per the tribunal order cited before CIT (A) and also before us, the assessee in that case, the assessee made payment of tax and interest in full on getting the demand notice in that case u/s 156 and under these facts, the tribunal held that since no time limit is prescribed for payment of tax and interest, the payment of tax and interest on raising the demand u/s 156 is good compliance of this payment requirement and the A.O. cannot insist that such payment should have been made before filing of return but in the present case, payment of tax and interest has not been made till now because no such evidence of payment has been brought on record before us or before lower authorities. Hence in the facts of the present case, this tribunal order is not applicable. Moreover, since the assessee has not complied with the specific requirements of sub section (2) of section 271AAA about payment of taxes and interest and therefore, the assessee is not eligible for the benefit of this sub section (2) of section 271AAA. Hence, we decline to interfere in the order of CIT (A).

5. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on the date mentioned on the caption page.

**Sd/-**  
**(SUNIL KUMAR YADAV)**  
**JUDICIAL MEMBER**

Place: Bangalore:

D a t e d : 17.10.2016

**Am /AKG/ DS /**

**Sd/-**  
**(A.K. GARODIA)**  
**ACCOUNTANT MEMBER**

**Copy to :**

- 1 Appellant
- 2 Respondent
- 3 CIT(A)-II Bangalore
- 4 CIT
- 5 DR, ITAT, Bangalore.
- 6 Guard file

By order,

AR, ITAT, Bangalore