

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : SMC-I : NEW DELHI

BEFORE SHRI R.S. SYAL, ACCOUNTANT MEMBER

ITA No.3555/Del/2014
Assessment Year : 2008-09

ACIT,
Circle-50(1),
New Delhi.

Vs. Mahle Engine Components
India Pvt. Ltd.,
30, 2nd Floor, NDSE-1,
Amrit Nagar,
New Delhi.
PAN: AAACM0096K

(Appellant)

(Respondent)

Appellant by : Shri Ved Jain, CA
Respondent by: Shri S.L. Anuragi, Sr.DR

Date of Hearing : 29.09.2015
Date of Pronouncement: 29.09.2015

ORDER

This appeal by the Revenue is directed against the order passed by the CIT(A) on 19.3.2014 deleting the penalty of Rs.2,20,031/- imposed by the Additional CIT u/s 271C of the Income-tax Act, 1961 (hereinafter also called 'the Act') in relation to the Assessment Year 2008-09.

2. Briefly stated, the facts of the case are that during the course of TDS survey conducted by the Revenue officers on 1.11.2010 in the office of Madhya Pradesh Audyogik Kendra Vikas Nigam (Indore) Ltd. (MPAKVN), it transpired that the assessee made payment of rent/lease charges to MPAKVN without deducting tax at source. The assessee was treated in default by means of order u/s 201(1)/(1A) of the Act determining its liability to the tune of Rs.3,16,263/-. Thereafter, penalty u/s 271C was imposed, which was deleted by the Id. CIT(A). The Revenue is aggrieved against the impugned order deleting such penalty.

3. I have heard the rival submissions and perused the relevant material on record. It is noticed that the assessee was treated in default in terms of section 201(1)/(1A) in respect of lease rental payments made to MPAKVN without deduction of tax at source. During the course of such proceedings, it was argued by the assessee that MPAKVN is a specialized State Corporation promoted for the development of industrial areas and infrastructure facilities in the western part of the State and, as such, the assessee was of the opinion that no tax at source was required to be deducted from payment of lease rent. It was further contended that not only

the assessee, but, whole of the industry was under this impression that the lease rent is being paid to Government and, hence, no liability to deduct tax at source was there. This is apparent from page 2 of the order passed by the AO u/s 201(1)/(1A). It is further evident from next para of the same order that the assessee did not deduct tax at source from payment of such lease rentals in the past also. The AO has found the assessee's contention in this regard as true, which has been recorded on para 3 of page 2 of his order. He did not treat the assessee in default in respect of financial years 2004-05 to 2006-07. It was only for the financial year 2007-08 and 2008-09 that the assessee was treated in default u/s 201(1)/(1A). These facts amply indicate that the assessee *ab initio* entertained a belief that the payment of lease rentals to MPAKVN was not subject to deduction of tax at source, being in the nature of a payment made to Government.

4. At this stage, it is pertinent to mention that section 273B provides that notwithstanding anything contained in the provisions of certain sections set out in this provision, no penalty shall be imposable where failure referred to in these sections is proved to be for a reasonable cause. Section 271C, which has been invoked in the instant case for imposition of penalty, is one

of the sections covered in section 273B. In this view of the matter, it becomes patent that penalty for failure to deduct tax at source u/s 271C cannot be imposed if there exists a reasonable cause for the failure of the assessee to deduct tax at source. In my considered opinion, the assessee has successfully demonstrated a reasonable cause, as discussed in the immediately preceding para, for not making deduction of tax at source from payment of lease rentals of MPAKVN. I, therefore, approve the view taken by the Id. CIT(A) in deleting the instant penalty, but, on this legal issue.

5. In the result, the appeal filed by the Revenue is dismissed.

The decision was pronounced in the open court on 29th September, 2015.

Sd/-
(R.S. SYAL)
ACCOUNTANT MEMBER

Dated: 29th September, 2015.

dk

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1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Dy. Registrar, ITAT, New Delhi