

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH 'B' PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.555/PUN/2020

निर्धारण वर्ष / Assessment Year : 2014-15

M/s. Rane Industries Pvt. Ltd., Gat No.52, Dehu Alandi Road, Talwade, Pune – 412114 PAN: AADCR9011N	Vs.	DCIT, Circle-5, Pune
Appellant		Respondent

Assessee by Shri M.K. Kulkarni
Revenue by Shri M.G. Jasnani

Date of hearing 13-06-2022
Date of pronouncement 13-06-2022

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the assessee is directed against the order passed by the CIT(A) on 11-03-2020 confirming the penalty of Rs.24,37,233 imposed by the Assessing Officer (AO) u/s 271(1)(c) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') in relation to the assessment year 2014-15.

2. Briefly stated, the facts of the case are that the assessee debited to its Profit & loss account - Education cess on TDS amounting to Rs.98,246; Income tax paid of Rs.76,59,480; Penalty on TDS of Rs.16,602; and TDS paid of Rs.52,600. Such amounts

totaling to Rs.78,26,928 were claimed in the Profit & loss account. During the course of assessment proceedings, the assessee was called upon as to why these amounts were not disallowed and added to the total income. In response, the assessee admitted the proposed disallowances by submitting that due to inadvertent mistake, the add back could not be made and even the Auditor also did not alert the assessee on this point. Thereafter, the AO imposed penalty amounting to Rs.24,37,233 u/s 271(1)(c) of the Act with reference to the above disallowances totaling to Rs.78.26 lacs, which came to be affirmed in the first appeal.

3. We have heard the rival contentions and gone through the relevant material on record. It is apparent from the assessment order itself that the assessee, when pointed out by the AO, admitted its inadvertent mistake in not adding back the above amounts totalling to Rs.78.26 lacs in the computation of total income, which were debited to the Profit & loss account. It is clear from the nature of the amounts and the way of their depiction thereof in the Profit & loss account that the assessee inadvertently committed a mistake in not adding back the amount of income tax, etc paid by it in the computation of total income. On being pointed out, the assessee

accepted the disallowance and paid due tax thereon. It is not a case where the assessee tried to mislead the Revenue by intentionally claiming higher amount of deduction. Rather it is a case of inadvertent mistake in the computation of income. The Hon'ble Supreme Court in *Price Waterhouse Coopers Pvt. Ltd. Vs. CIT (2012) 348 ITR 306 (SC)* has held that no penalty u/s.271(1)(c) can be imposed in respect of inadvertent and *bona fide* mistake committed by the assessee. The Hon'ble jurisdictional High Court in *CIT Vs. Somany Evergreen Knits (2013) 352 ITR 592* also deleted the penalty which occurred due to *bona fide* and inadvertent mistake of the Chartered Accountant while filing the return. Since the facts and circumstances of the instant case amply show that the excess claim of deduction was due to *bona fide* and unintentional mistake, respectfully following the precedents, we order to delete the penalty.

4. In the result, the appeal is allowed.

Order pronounced in the Open Court on 13th June, 2022.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 13th June, 2022
GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-4, Pune
4. The PCIT-3, Pune
5. DR, ITAT, 'B' Bench, Pune
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,**// True Copy //**

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

		Date	
1.	Draft dictated on	13-06-2022	Sr.PS
2.	Draft placed before author	13-06-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
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10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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