

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER**

आयकर अपील सं. / ITA No.807/PUN/2019

निर्धारण वर्ष / Assessment Year : 2011-12

Anmole Singh Ghuman
H.No.624, Sector-78, SAS Nagar,
Mohali, Punjab – 160071

PAN : ACNPG6525H

.....अपीलार्थी / Appellant

बनाम / V/s.

Income Tax Officer,
Ward 6(4), Pune

.....प्रत्यर्थी / Respondent

Assessee by : None
Revenue by : Shri S.P. Walimbe

सुनवाई की तारीख / Date of Hearing : 18-05-2022
घोषणा की तारीख / Date of Pronouncement : 19-05-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 27-03-2019 passed by the Commissioner of Income Tax (Appeals)-13, Pune, [‘CIT(A)'] for assessment year 2011-12.

2. We find no representation on behalf of the assessee nor any application filed seeking adjournment. The assessee called absent and set *ex-parte*. Therefore, we proceed to hear the Ld. DR and pass order on the basis of material evidence on record.

3. The assessee has raised three grounds of appeal, amongst which the only issue emanates for our consideration is as to whether the ld. CIT(A) is justified in confirming the penalty of Rs.3,52,803/- levied u/s 271(1)(c) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

4. Heard the ld. DR and perused the material available on record. We note that the assessee is an individual filed return declaring total income of Rs.5,39,360/-. A notice u/s 143(2) of the Act was issued seeking explanation regarding the return of income. According to the AO on verification of 26AS data, it was found that the assessee accepted salary income from Sesa Sterlite Ltd. and not offered for taxation. For not disclosing the said salary in the return of income, the AO initiated penalty proceedings u/s 271(1)(c) of the Act for furnishing inaccurate particulars. It was explained by the assessee that due to oversight the document relating to Form 16 from Sesa Sterlite Ltd. was misplaced and it was not intentionally nor wantonly suppressed the same. We note that the AO added the said salary income derived from Sesa Sterlite Ltd. to the total income of assessee and determined the same at Rs.17,19,350/- under scrutiny assessment passed u/s 143(3) of the Act. The ld. CIT(A) confirmed the same. We note that it was explained by the assessee by oversight the salary derived from Sesa Sterlite Ltd. was not included in the return of income, but however in the scrutiny proceedings the same was accepted by the assessee to be his income and paid taxes thereon. The ld. DR supported the order of ld. CIT(A) in confirming the penalty that the assessee intentionally not disclosed the said salary income, due to which the high income would not have come to taxability but otherwise on scrutiny assessment the assessee disclosed the same to taxation. The ld. CIT(A) rightly confirmed the order of AO taking into consideration the facts

and circumstances of the present case. We note that the assessee did not suppress the fact that no income incurred as such, but however it is reflected in Form 26AS data which is otherwise a salary data and TDS deductions are available for examination to the AO. Therefore, in our considered opinion as contended by the AO that it was not furnishing of inaccurate particulars but it can only be oversight the assessee could not offer the same. On such circumstances, the explanation as offered by the assessee is bonafide. Thus, when it is not furnishing of inaccurate particulars, levy of penalty u/s 271(1)(c) of the Act for furnishing inaccurate particulars does not arise. Therefore, the order of Id. CIT(A) is not justified and it is set aside. The grounds of appeal raised by the assessee are allowed.

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

Order pronounced in the open court on 19th May, 2022.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER
पुणे / Pune; दिनांक / Dated : 19th May, 2022.
GCVSR

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-13, Pune
4. The PCIT-3, Pune
5. DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune