

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

Before Sh. A.D. Jain, Vice President

Dr. B. R. R. Kumar, Accountant Member

ITA No. 588/Del/2018 : Asstt. Year: 2005-06

Neelkanth Town Planners Pvt. Ltd. G-36, 2 nd Floor, Outer Circle, New Delhi-110001	Vs	DCIT, Central Circle-27, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAACN2742D		

Assessee by : None

Revenue by : Sh. N. K. Bansal, Sr. DR

Date of Hearing: 10.05.2022

Date of Pronouncement: 20.05.2022
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ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of the Id. CIT(A)-29, New Delhi dated 08.12.2017.

2. The Assessing Officer made addition of Rs.1,40,00,000/- to the total income on account of accommodation entry. Consequent to the addition, penalty u/s 271(1)(c) has been levied by the AO.

3. We find that the page no. 2, the Assessing Officer has mentioned that "*I am satisfied that the assessee company has concealed the particulars of its income for the A.Y. 2005-06, therefore penalty provisions u/s 271(1)(c) of the of the Income Tax Act, 1961 are attracted.*"

4. We also find that the last page of the penalty order reads as under:

"Accordingly, in view of the above, I hereby levy a penalty of Rs.43,91,100/- u/s 271(1)(c) of the Income Tax Act, 1961 for concealment of income and furnishing of inaccurate particulars of income."

5. We have also gone through the issue of notice u/s 274 r.w.s. 271 of the Income Tax Act, 1961 issued by the Assessing Officer on 20.03.2017 mentioned at page no. 2 of the penalty order. We find that the Assessing Officer has issued the penalty notice stating that, *"subsequently penalty notice u/s 271(1)(c) was issued on 20.03.2017, fixing the case for hearing on 24.03.2017. The assessee was asked to why penalty u/s 271(1)(c) should not be imposed upon you for concealment of the particulars of your income/furnishing inaccurate particulars of income."*

6. On this issue, we are guided by the following judgments:

- 1) Karnataka High Court: CIT vs. Manjunatha Cotton and Ginning Factory: 359 ITR 565 held that notice under section 274 should specifically state the grounds mentioned in section 271(1)(c) of the Act, i.e., whether it is for concealment of income or for furnishing of incorrect particulars of income. Sending printed form where all the grounds mentioned in section 271 are mentioned would not satisfy requirement of law.
- 2) Bombay High Court: Mr. Mohd. Farhan A. Shaikh Vs ACIT Section 271(1)(c): Penalty-Concealment-Non-striking off of the irrelevant part while issuing notice u/s 271(1)(c) of the Income Tax Act, order is bad in law. Assessee must be informed of the ground of the penalty proceedings only through statutory notice. An omnibus notice suffers from the vice of vagueness.

- 3) The Hon'ble jurisdictional Delhi High Court in the case of PCIT vs. Sahara India Life Insurance Co. Ltd. in ITA No. 475 of 2019, reiterated that notice under section 274 should specifically state the grounds on which penalty was sought to be imposed as the assessee should know the grounds which he has to meet specifically.
- 4) The aforesaid principle has been reiterated in the in the case of CIT vs. SSA'S Emerald Meadows: 73 taxmann.com 241 (Kar) [Revenue's SLP dismissed in 242 Taxman 180]

7. Hence, respectfully following the order of the Hon'ble Jurisdictional High Court, since the AO has not been specified u/s 274 as to whether penalty is proposed for alleged 'concealment of income' OR 'furnishing of inaccurate particulars of such income', the penalty levied is hereby obliterated.

8. In the result, the appeal of the assessee is allowed.
Order pronounced in the open court on 20/05/2022.

Sd/-

(A.D. Jain)
Vice President

Dated: 20/05/2022

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR