

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "C" BENCH, AHMEDABAD****BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER****ITA Nos.1448 & 1449/Ahd/2019
Assessment Years: 2011-12 & 2012-13**

Manjriben Pravinchandra Raninga, vs. Income Tax Officer,
12, Manichandra Society, Part-1, Ward 3(1)(3), Ahmedabad.
Nr. Surdhara Circle,
Sal Hospital Road,
Ahmedabad.
[PAN – ABXPR 2503 F]

**ITA Nos.1446 & 1447/Ahd/2019
Assessment Years: 2011-12 & 2012-13**

Pravinchandra Premjibhai Raninga, vs. Income Tax Officer,
12, Manichandra Society, Part-1, Ward 3(1)(3), Ahmedabad.
Nr. Surdhara Circle,
Sal Hospital Road,
Ahmedabad.
[PAN – ABNPR 2441 J]
(Appellants) (Respondents)

Appellant by : Adjournment Application
Respondent by : Shri V.K. Singh, Sr. D.R.

Date of hearing : 25.05.2022
Date of pronouncement : 01.06.2022

ORDER**PER SUCHITRA KAMBLE, JUDICIAL MEMBER :**

These four appeals pertain to two different assessees, involving a common issue, are filed against four different orders, all dated 06.06.2019, passed by the CIT(A)-9, Ahmedabad for the Assessment Years 2011-12 & 2012-13 and were heard together. As a matter of convenience, therefore, all these four appeals are being disposed of by way of this consolidated order.

2. As identical grounds have been raised in all these four appeals, we are taking up the appeal filed by the assessee for the Assessment Year 2011-12 i.e. ITA No.1448/Ahd/2019 and the grounds raised in this appeal are reproduced as under :-

- “1. *On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Appeals) has erred in confirming penalty levied by assessing officer u/s.271(1)(c) of the Act.*
2. *On the facts and circumstances of the case as well as law on the subject, the Learned Commissioner of Income Tax (Appeals) has erred in confirming penalty which was initiated without specifying charge regarding concealing particulars of income or filing inaccurate particulars of income.*
3. *It is therefore prayed that the above addition/disallowance made by the assessing officer may please be deleted.”*

3. Firstly, we are taking up the facts of ITA No.1448/Ahd/2019 as all the appeals are filed on identical issues. The assessee has not filed return of income for the A.Y. 2011-12. The assessment was reopened under section 147 of the Income Tax Act, 1961 after recording the reasons for the belief that the income chargeable to tax had escaped assessment. The assessment was completed on 21.12.2016 thereby determining total income of Rs.11,36,783/- making various additions. In the meanwhile, penalty proceedings were initiated under Section 271(1)(c) of the Act. The assessee filed reply/submissions before the Assessing Officer thereby stating that the notice dated 21.12.2016 issued under Section 271(1)(c) of the Act did not specify the nature of default committed by the assessee as to whether it is concealment of income or furnishing of inaccurate particulars of income. The assessee filed return of income on 10.03.2015. Thus, the particulars of income was before the Assessing Officer, but the Assessing Officer has wrongly mentioned that return of income was not filed.

4. Being aggrieved by the penalty order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. At the time of hearing Id. AR of the assessee filed adjournment application, since the issue involved is related to initiation of penalty under Section 271(1)(c), we are rejecting the adjournment application and proceeding on the basis of the written

submissions of the assessee filed before the Assessing Officer and CIT(A) as quoted in the respective orders.

6. Ld. D.R. relied upon the assessment order, penalty order and the order of the CIT(A).

7. We have heard the Ld. D.R. and perused all the relevant material available on record. It is pertinent to note that the entire basis of imposing penalty was concealment of income on the part of the assessee as to non-filing of return of income by the assessee. But from the perusal of the records we can see that the assessee has filed return of income which was very much submitted before the Assessing Officer as well as before the CIT(A) and quoted in the written submissions in both the orders. The Assessing Officer as well as the CIT(A) has not at all verified this fact and simplicitor imposed penalty on concealment of income under Section 271(1)(c) of the Act without giving any opportunity to the assessee at the appellate stage i.e. before the CIT(A). Further, it is noticed that in the notice issued under Section 271(1)(c) read with Section 274 of the Act the specific limb was also not mentioned in the notice. Therefore, the decision of the Hon'ble Supreme Court in the case of CIT vs. SSA's Emerald Meadows, 73 taxmann.com 248 (SC) and CIT vs. Manjunatha Cotton & Ginning 359 ITR 565 (Karnataka) as well as decision of the Hon'ble Delhi High Court in the case PCIT vs. Sahara India Life Insurance Co. Limited (ITA No.475/2019 order dated 20.08.2019) are applicable in the present case. It has been held in these decisions that notice issued by the Assessing should specify which limb of Section 271(1)(c) of the Act penalty proceedings has been initiated. Therefore, the appeal of the assessee being ITA No.1448/Ahd/2019 is allowed.

8. All the other three appeals are identical, hence allowed.

9. In the result, all the four appeals are allowed.

Order pronounced in the open Court on this 1st day of June, 2022.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 1st day of June, 2022

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Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad*