

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC" : DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.6812/Del./2017
Assessment Year 2014-2015

Shri Gnyandeep Kantipudi, B-112, Shivalik Near Malviya Nagar, New Delhi- 110 017. PAN AAQPK7333J	vs.	The ACIT, Circle 54(1), New Delhi.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Shri V.K. Jiwani, Sr.D.R.

Date of Hearing :	08.03.2018
Date of Pronouncement :	14.03.2018

ORDER

This appeal by assessee has been directed against the order of the Ld. CIT(A)-18, New Delhi, dated 22nd September, 2017, for the A.Y. 2014-2015, challenging the levy of penalty under section 271(1)(c) of the I.T. Act, 1961.

2. Briefly, the facts of the case are that during the assessment proceedings the A.O. made addition on account of disallowance of deduction under section 57 of Rs.16,60,121/-.

The addition was made under the Head “Income from other sources”. The assessee was asked to file details of income from other sources and expenditure claimed against the same. Vide letter dated 12th May, 2016, assessee submitted the required details. On perusal of the same, it was observed that assessee is showing the income of Rs.21,81,654/- as assured return and claimed expenses of Rs.16,60,121/-. The assured return of Rs.21,81,654/- is from DLF Home Private Limited, Imperia Structures Ltd., Piyush Shelters India Pvt. Ltd., and Piyush Colonizers Ltd., However, the expenses of RS.16,60,121/- is against home loan taken from ING Vysya bank. Vide note sheet dated 23.09.2016 and 06.10.2016, the assessee was confronted as to how the expenses of Rs.16,60,121/- has any direct nexus with the income from assured return for the purpose of Section 57(iii) of the I.T. Act and as to why the same be not disallowed as income from other sources is not related to the expenses so claimed above. Assessee had no explanation but to accept and agreed to the addition on account of disallowance of the same. The assessee was again provided an opportunity vide show

cause notice dated 2nd December, 2016, to offer the explanation regarding the nexus of the expenses with the assured income. The assessee again confirmed that it is not related in any way. The assessee has surrendered the amount in question for addition. The penalty proceedings were separately initiated. The A.O. in the penalty order noted that assessee accepted that there is no direct relation between the interest expenses on home loan from ING Vysya and assured returned income. The assessee was repeatedly confronted that there is no direct nexus between the expenses so claimed with the income from other sources. Ultimately, assessee admitted and offered the amount for taxation. A.O. noted that only 2% of the returns are selected for scrutiny and there are very less probability of being caught. Therefore, it is a case of willful filing of inaccurate particulars. The A.O. relied upon the decision of Hon'ble Delhi High Court in the case of CIT vs. Zoom Communications Pvt. Ltd., 327 ITR 151 and levied the penalty under section 271(1)(c) of the I.T. Act on this addition.

3. The assessee filed the appeal before Ld. CIT(A). The assessee's written submissions are reproduced in the appellate order in which assessee briefly explained that expenditure was surrendered for taxation before anything could be detected by the Department against the assessee. Assessee surrendered the amount *suo motu* to buy peace and avoid litigation. The assessee filed surrender letter dated 21st October, 2016. The Ld. CIT(A) did not accept the contention of the assessee because assessee was confronted all the above facts prior to surrender made by the assessee and accordingly, confirmed the levy of penalty and dismissed the appeal of the assessee.

3.1. On the last date of hearing, assessee sought adjournment which was granted for 08th March, 2018. However, on the date of hearing, none appeared on behalf of the assessee despite service of the notice.

4. Ld. D.R. on the other hand, relied upon the orders of the authorities below.

5. After considering the submissions of the Ld. D.R. I am of the view that no interference is called for in the matter. The assessee declared income from other sources. Therefore, it is the duty of the assessee to explain that expenses related to income from other sources have any direct nexus with the earning of such income. The A.O. found specific fact against the assessee that assessee made a wrong claim of expenditure against the income from other sources. The assessee failed to prove any direct nexus with the expenses claimed with income from other sources. The assessee was, therefore, confronted with the fact vide order sheet dated 23rd September, 2016 and 06th October, 2016 as to why the claim of the assessee should not be disallowed. The assessee had no explanation but to accept the addition proposed by the A.O. Even thereafter, explanation of assessee were called for but assessee reiterated that it has no explanation whatsoever. Therefore, claim of assessee of deduction for expenditure was found false and bogus. It is, therefore, clear case, where fact of filing inaccurate particulars have been detected by the A.O. at assessment stage

that assessee made a wrong claim of deduction of the expenditure deliberately. It is a common knowledge that only few returns are selected for scrutiny. If the assessee makes a claim which is not only incorrect in law but is also wholly without any basis and the explanation furnished by him for making such claim is not found to be bonafide, it would be difficult to say that assessee would still not liable to penalty under section 271(1)(c) of the I.T. Act. The decision of the Hon'ble Delhi High Court in the case of Zoom Communication Pvt. Ltd., (supra), squarely applied to the facts of the case. The appeal of assessee has no merit and the same is accordingly, dismissed.

6. In the result, appeal of assessee is dismissed.

Order pronounced in the open Court.

**Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER**

Delhi, Dated 14th March, 2018

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.