

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE – VIRTUAL COURT

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

ITA No.1594/PUN/2017

निर्धारण वर्ष / Assessment Year : 2011-12

Arjun Dada Kharate, Pooja Row House No.B-2, Vidya Nagar, Makhmalabad, Nashik – 422 003 PAN : BCMPK8087Q	Vs.	DCIT, Circle-1, Nashik
Appellant		Respondent

ITA No.1599/PUN/2017

निर्धारण वर्ष / Assessment Year : 2011-12

Bhima Dada Kharate, Pooja Row House No.B-2, Vidya Nagar, Makhmalabad, Nashik – 422 003 PAN : BCMPK7951D		DCIT, Circle-1, Nashik
Appellant		Respondent

Assessee by None
Revenue by Shri Prathamesh J. Lawand
Date of hearing 10-08-2020
Date of pronouncement 10-08-2020

आदेश / ORDER

PER BENCH :

These two appeals by the different but related assessee arise out of the orders dated 29-05-2017 passed by the ld. CIT(A)-1, Nashik confirming penalty imposed u/s.271F of the Income-tax

Act, 1961 (hereinafter also called 'the Act') in relation to the assessment year 2011-12. Since a common issue is raised in these appeals, we are, therefore, proceedings to dispose them off by this consolidated order.

ARJUN DADA KHARATE :

2. Succinctly, the facts in the case of Arjun Dada Kharate are that he, along with other related persons, sold certain land/immovable property at Gat No.150 & 151, Makhmalabad, Nashik to Suyojit group of Nashik with his share in the transaction at Rs.96,66,666/-. The assessee filed his return on 19-12-2013 declaring total income at Rs.43,93,199/-. Since the return was beyond the time stipulated u/s 139(1) of the Act, assessee was served with a notice u/s.148. Assessment order was passed u/s.143(3) r.w.s.147 assessing total income at Rs.42,24,116/-. The Assessing Officer (AO) imposed penalty of Rs.5,000/- u/s.271F of the Act on the ground that the assessee failed to file his return of income within the time prescribed u/s.139(1) of the Act. The assessee made certain written submissions before the ld. CIT(A)

seeking deletion of penalty, which did not find favour with the Id. first appellate authority, who affirmed the penalty.

3. We have heard the Id. DR through virtual court and gone through the relevant material on record. It is seen from the impugned order that the assessee stated reasons before the Id. CIT(A) for not furnishing the return u/s.139(1) of the Act. Such reasons have been reproduced in para 5 of the impugned order. The reasons referred to the assessee being an agriculturist and illiterate; facing financial and family problems; under the impression that gain arising from sale of any agricultural land not chargeable to tax. When we consider the entirety of the facts and circumstances obtaining in this case, it becomes apparent that there was reasonable cause on the part of the assessee in not filing return u/s.139(1) of the Act, against which the penalty has been imposed and confirmed u/s.271F of the Act. Section 273B provides that no penalty shall be imposed, *inter alia*, u/s.271F where the assessee establishes a reasonable cause for failure referred to in said section. In the given facts, we find that there was a reasonable cause with the assessee in the terms given in para 5 of the impugned order.

This being the position, the case gets covered u/s 273B of the Act.

As such, we order to delete the penalty.

BHIMA DADA KHARATE :

4. The facts in the case of Bhima Dada Kharate are *mutatis mutandis* similar to those discussed supra in the case of Sh. Arjun Dada Kharate. Following the view taken hereinabove, we order to delete the penalty.

5. In the result, both the appeals are allowed.

Order pronounced in the Open Court on 10th August, 2020.

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

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

पुणे Pune; दिनांक Dated : 10th August, 2020

Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-1, Nashik
4. The Pr.CIT-1, Nashik
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे
“ए” / DR ‘A’, ITAT, 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	10-08-2020	Sr.PS
2.	Draft placed before author	10-08-2020	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
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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