THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLR SRI JUSTICE M.SATYANARAYANA MURTHY

I.T.T.A.NO.278 OF 2015

JUDGMENT: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

This appeal, under Section 260A of the Income Tax Act, 1961 ("the Act" for brevity), is preferred by the Revenue against the order passed by the Income Tax Appellate Tribunal, Hyderabad (Tribunal), in I.T.A.No.640/Hyd/2006 dated 27.08.2012 for the assessment year 2002-2003.

The respondent herein preferred ITA.No.141 of 2007 and batch, which included ITA.No.640 of 2006 also. The appeal was preferred by the assessee both on the quantum assessed to tax, and on the penalty imposed on them. In the order under appeal, the Tribunal held that the issue relating to allowability of deduction under Section 80IA, for the assessment year 2002-2003, was also the subject matter of appeal in ITA.No.465 of 2006; they had remitted back the issue, relating to allowability, to the Assessing Officer for fresh consideration; at this stage levy of penalty under Section 271(1)(c) of the Act was premature; levy of penalty at this stage was not justified; even otherwise the Supreme Court, in the case of **CIT v. Reliance Petroproducts Pvt. Ltd.**, had held that mere making of a claim, which was not sustainable in law, by itself would not amount to furnishing inaccurate particulars regarding the income of the assessee; and, if the contention of the Revenue was accepted, then in case of every return, where the claim made was not accepted by the assessing officer for any reason, the assessee would invite penalty under Section 271(1)(c) of the Act; and that was not the intendment of the Legislature. The appeal in ITA.No.640 of 2006 was allowed.

Section 271(1)(c) of the Act enables penalty to be imposed where the assessing authority is satisfied that any person has concealed the particulars of his income, and has furnished inaccurate particulars of such income. Penalty was imposed on the respondent-assessee on the ground that inaccurate particulars were furnished by them. As has been rightly held by the Tribunal, following the judgment of the Supreme Court in **Reliance Petroproducts Pvt. Ltd.**[1], mere making of a claim, which is not sustainable in law, by itself would not amount to furnishing inauccurate particulars of income. We find no error, much less a substantial question of law, necessitating interference in appeal.

The appeal is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

5th November 2015

RRB