IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.R. Nos. 107 to 109 of 1999
Date of Decision:-08.01.2015

Dr. K.L. Batra, Chandigarh

...Petitioner

Versus

Commissioner of Income Tax, Patiala

...Respondent

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Akshay Bhan, Senior Advocate with
Mr. Aalok Mittal, Advocate
for the petitioner.

Ms. Urvashi Dhugga, Advocate
For the respondent.

HEMANT GUPTA J.(Oral)

This order shall dispose of Income Tax Reference Nos.107 to 109 of 1999 referred to this Court under Section 256(2) of the Income Tax Act, 1961 (for short 'the Act') arising out of the order passed by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh (for short 'the Tribunal') on 24.12.1997 pertaining to assessment years 1979-80, 1980-81 and 1981-82 raising the following substantial question of law:-

> “Whether in the facts and circumstances of the case, the Tribunal was right in holding that the Assessee was liable to penalty under Section 271 (1)(c) of the Income Tax Act, 1961 for the

Assessment Years 1979-1980 to 1981-1982?"

The facts in brief are that the assessee after filing its original return, submitted revised return after survey operation was conducted on 11.8.1988. In the revised return, the assessee revised his income. After the assessment was framed, proceedings under Section 271(1)(c) of the Act were initiated for imposing of penalty for furnishing inaccurate particulars of income. The assessee sought to justify the claim of house hold expenses and of professional income but admitted unexplained investment in the agricultural land. After considering the replies filed, the Assessing Officer levied different amount of penalties in the three assessment years on 31.7.1992. Separate appeals against the order of penalty imposed by the Assessing Officer were partly allowed by the Commissioner of Income Tax (Appeals) on 1.10.1992. The orders in appeal set aside the levy of penalty on account of house hold expenses because the addition has been made on estimated basis without pointing out as to any item of expenditure which the assessee has failed to disclose. The amount of penalty in respect of addition on account of professional income was set aside following the decision of the Tribunal in the assessee's own case pertaining to assessment year beginning 1982-83 ending with 1988-89 vide order dated 15.6.1992.

However, the penalty on account of investment in the agricultural land was maintained for the reason that the assessee has not been able to tender any evidence at any stage of the proceedings to explain or substantiate the investment. In fact, the counsel representing the assessee admitted that unexplained investment in agricultural land would involve penalty under Section 271(1)(c) of the Act.

The amount of penalty in respect of additions on amount of professional income and house hold has been set aside by the Commissioner of Income Tax (Appeals) and maintained by the Tribunal. It is only the penalty on the amount of investment in the agricultural land, which has been maintained. The learned Tribunal has recorded a finding that even before the Tribunal in the penalty proceedings; the counsel expressed his inability to produce any evidence to explain the investments in the agricultural land. Since there is no explanation in respect of investment in the agricultural land at any stage of the proceedings, therefore, the finding recorded by the Tribunal upholding the levy of penalty to such extent cannot be said to be raising any substantial question of law for consideration of this Court.

Thus, the question of law is answered in affirmative against the assessee.

(HEMANT GUPTA)
JUDGE

January 08, 2015
Vijay Asija

(HARI PAL VERMA)
JUDGE