IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA-324-2014

Decided on : 12.02.2015

Manoj Kumar Singhal **..... Appellant**

VERSUS

Commissioner of Income Tax, Rohtak **..... Respondent**

CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.Ravi Shankar, Advocate, for the appellant.

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RAJIVE BHALLA, J.

By way of this order, we shall dispose of ITA-324-2014 and ITA-326-2014. For the sake of convenience, facts are being taken from ITA-324-2014.

The appellant challenges order dated 11.03.2014, passed by the Income Tax Appellate Tribunal Delhi Bench 'E', New Delhi, (hereinafter referred to as the 'Tribunal'), affirming the imposition of penalty under Section 271(1)(c) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act').

Counsel for the appellant submits that the penalty is not warranted as all relevant facts were disclosed to the assessing officer. The mere fact that the gift was rejected and the quantum appeal was dismissed, does not automatically render the assessee liable for penalty. The gifts declared by the appellant were shown in the accounts books. The fact that the donor was not found at the given address, cannot be a ground to impose penalty. A penalty can only be imposed if there is a conscious concealment of income or an intentional furnishing of inaccurate particulars.

We have heard counsel for the appellant and perused the impugned order.

Admittedly, the appellant claimed a gift of Rs.2 lacs from one Sh. Sunil Kumar Garg. The appellant was asked to prove the genuineness of the gift. The appellant was unable to produce Sh. Sunil Kumar Garg. The address supplied by the appellant was found to be incorrect. The assessing officer added Rs. 2 lacs to the capital account of the assessee, for the assessment year 2002-03. The order of assessment has attained finality with dismissal of the quantum appeals filed by the appellant. The appellant was thereafter served with a notice asking him to show cause why penalty should not be imposed. The appellant pleaded that he did not conceal anything as the gifts were duly shown in the accounts books and in the capital account filed before the assessing officer. The assessing officer rejected the explanation and proceeded to levy a minimum penalty of R.66,151/-.

Aggrieved by this order, the appellant filed an appeal which was dismissed by the Commissioner of Income Tax (Appeals), Rohtak (hereinafter referred to as the 'CIT(A)'. An appeal filed by the appellant before the Tribunal was also dismissed.

An appraisal of the facts reveals that the appellant claimed that one Sh. Sunil Kumar Garg had gifted Rs. 2 lacs but when called upon to prove the genuineness of the transaction or the identity of the donor, could not prove the genuineness of the transaction or even the identity of the donor. Even the address of the donor supplied by the appellant was found to be false. It is, therefore, apparent that the appellant made an intentional attempt to evade tax by setting up a false gift. The impugned orders passed after considering all relevant facts and recording satisfaction in terms of Section 271(1)(c) of the Act, do not call for interference and as no substantial question of law arises for adjudication, the appeals are dismissed.

[RAJIVE BHALLA]
JUDGE

12.02.2015
Shamsher S.Sabharwal

[AMOL RATTAN SINGH]
JUDGE