IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 667 OF 2014

The Commissioner of Income Tax-8 .. Appellant

v/s.

M/s. IMS Health India Pvt. Ltd. .. Respondent

Mr. Arvind Pinto for the appellant

CORAM : S.V. GANGAPURWALA &
G.S. KULKARNI, J.J.

DATED : 14th JUNE, 2017

P.C.

1. This appeal relates to Assessment Year 1998-99.

2. The Revenue has filed the appeal on the following grounds claiming to be substantial questions of law :-

> *(a) Whether on the facts and in the circumstances of the case and in law, the Tribunal is justified in deleting the penalty of Rs.42,48,656/- levied u/s 271(1)(c) of the Act, without appreciating the facts that the assessee had failed to offer an explanation in respect of certain disallowance made by the Assessing Officer and the explanation offered by the*

assessee in respect of certain disallowance was found to be false and thus, the assessee has failed to rebut the presumption of Explanation 1 to Section 271(1)(c) of the Act?

(b) Whether on the facts and in the circumstances of the case and in law, the Tribunal is justified deleting penalty imposed u/s 271(1)(c) without appreciating the fact that the quantum additions were sustained both by the CIT(A) and the Tribunal itself ?

(c) Whether on the facts and in the circumstances of the case and in law, the Tribunal is justified in deleting penalty levied u/s 271(1)(c) without appreciating that the findings given by the Tribunal in quantum appeal have been accepted by the assessee which clearly established that inaccurate particulars had been furnished by the assessee to reduce the incidence of tax?

(d) Whether on the facts and in the circumstances of the case and in law, the fact that the quantum has been sustained by the highest fact finding authority, namely the Tribunal would go to indicate that the respondent company has furnished inaccurate particulars and is therefore liable for penalty u/s 271(1)(c)?

(e) Whether on the facts and in the circumstances of the case and in law, the Tribunal is justified in deleting penalty imposed u/s 271(1)(c) by relying on the decision of Hon'ble Apex Court in the case of Reliance Petro Products (P) Ltd.

(322 ITR 156) without appreciating the fact that the facts of the instant case are distinguishable from the case of Reliance Petro Products (P) Ltd.?

(f) Whether on the facts and in the circumstances of the case and in law, the Tribunal is justified in deleting the penalty imposed u/s 271(1)(c) by not appreciating the ratio of decision of Hon'ble Apex Court in the case of Dharmendra Textile Processors & Ors. (306 ITR 277) and decision of Hon'ble Delhi High Court in the case of CIT Vs. Zoom Communication Pvt. Ltd. (327 ITR 510), which is in line with the facts in the instant case?

3. Mr. Pinto, the learned Counsel for the appellant submits that the CIT(A) so also the Tribunal were not right in passing the impugned order, thereby allowing the contentions of the assessee and setting aside the order of the Assessing Officer imposing penalty under Section 271(1)(c) of the Income Tax Act. The wrong claim was made by the assessee. As the wrong claim was intentionally made, the same gave right to the Assessing Officer to impose penalty under Section 271(1)(c) of the Act.

4. We have considered the submissions canvassed by the learned Counsel for the appellant so also gone through the orders passed by

the Authorities and the Tribunal. It has been observed that in fact, the loss on Information Service Division was subsequently allowed by the Assessing Officer in the consequential orders. Therefore, the major amount itself does not call for penalty. The balance three amounts are *bona fide* claims. The same has been appreciated by the CIT(A) and the Tribunal after considering the entire material on record. In the facts of the present case, the Tribunal has rightly relied on the judgment of the Apex Court in the case of ***Commissioner of Income Tax Vs. Reliance Petro Products (P) Ltd., (2010), 322 ITR 158***.

5. In the light of the above, no substantial questions of law arise. The appeal as such is dismissed. No costs.

(G.S. KULKARNI, J.) **(S.V. GANGAPURWALA, J.)**