HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA-123-2022 (O&M)
Date of decision: 29.03.2023

Rajan Setia ....Appellant

V/s.

Commissioner of Income Tax, Ludhiana ....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Divya Suri, Advocate with
Ms. Sameeksha Gupta, Advocate
for the applicant/petitioner.

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Ritu Bahri, J. (Oral).

CM-7245-CII-2022 is an application for condonation of delay of 60 days in filing the present appeal and CM-7246-CII-2022 is an application for condonation of delay of 3270 days in re-filing the appeal.

There is no valid explanation given for condonation of delay of 3270 days in refiling the present appeal. The reasons given in the application is that there were certain objections and to remove those objections, sometime was taken to arrange relevant documents. The applicant had to consult various lawyers at Muktsar and after March 2020 on account of lock down, he was not able to consult the lawyers and in this backdrop, delay of 3270 days in re-filing the appeal occurred.

Even on merits, a perusal of the impugned order dated 14.09.2012 (Annexure A-4) shows that the assessee had filed an appeal against the order dated 15.06.2011 passed by the CIT(A) whereby penalty under 271(1)(c) of the Act had been imposed and upheld by the CIT(A).

The assessee had concealed the income for the assessment years under reference and he had not disclosed the surrender made for the assessment years in the original returns of the income under reference. In response to notice under Section 153A of the Act, it is found to be a clear case of making surrender in the revised return of the income, after detection of concealment by the Department as a result of search of incriminating documents in the course of search and seizure operations and the Assessing Officer issued detailed questionnaire pursuant thereto. It is further observed that surrender had not been made in accordance with 132(4) read with explanation 5A() to Section 271(1)(c) of the Act.

The Tribunal, while dismissing the appeal of the appellant, had taken into consideration the judgments passed by the Supreme Court in the case of ***G.C. Aggarwal Vs. CIT (1990) 186 ITR 571(S.C)*** and Allahabad High Court in ***Mool Chand (1978) Mahesh Chand vs. CIT 115 ITR 1 (All.)*** on the proposition that disclosure was made by the assessee in the revised return in response to 148(A) of the Act after search operation and in the revised returns, the assessee disclosed much larger incomes without justification than those disclosed in the original returns. The revised returns had been filed with a view to avoid litigation and imposition of penalty was upheld.

Hence, order dated 14.09.2012 (Annexure A-4) passed by the Tribunal does not require any interference as no substantial question of law arises in this appeal. The appeal is being dismissed on the ground of delay of 3270 days in refiling the appeal as well as on merits.

Pending application also stands dismissed.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

29.03.2023
Divyanshi

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No