

आयकरअपीलीयअधिकरण“ए”न्यायपीठपुणेमें
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, PUNE
VIRTUAL COURT OF HEARING

BEFORE SHRI S.S.VISWANETHRA RAVI, Hon’ble JM
AND DR. DIPAK P. RIPOTE, Hon’ble AM

आयकरअपीलसं. / ITA No.1162/PUN/2018
निर्धारणवर्ष / Assessment Year : 2013-14

Yogesh Parashram Pangarkar, S.No.259, KalwadLohgaon Road, Kalwd, Pune – 411032. PAN: AJEPP 0509 Q	Vs	The Income Tax Officer, Ward- 11(2), Pune.
Appellant/ Assessee		Respondent /Revenue

Assessee by	Shri Bharat Shah – AR
Revenue by	Shri S.P.Walimbe– DR
Date of hearing	16/02/2022
Date of pronouncement	153/03/2022

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the Assessee directed against the order of ld.Commissioner of Income Tax(Appeals)-1, Pune, Appeal Number.PN/CIT(A)1/DCIT,Cir.1(2)/PN/508/16-17 dated 12.01.2018 for the Assessment Year 2013-14.The Assessee raised following grounds of appeal:

“1) *The authorities below erred in facts and circumstances of the case and in law in levying penalty of Rs.25000/- u/s 271A when the assessee has maintained proper books of accounts. Just and proper relief be granted to the assessee in this respect.*

2) *The appellant prays to be allowed to add, amend, modify, rectify, delete, raise any ground of appeal before or at the time of hearing.”*

2. Brief facts of the case, as emanating from the order of the Ld.CIT(A), are that the assessee is a Doctor by a profession. The professional receipts of the assessee during the year was of Rs.15,39,837/-. As per provisions of section 44AA of the Act, the appellant was required to maintain books of accounts as mentioned in the Income Tax Rules 6F. During the assessment

proceedings, the Assessing Officer(AO) observed that the appellant had not maintained books of accounts. Therefore, the AO initiated penalty under section 271A of the Act. During the penalty proceedings, the appellant was given opportunity. However, the appellant failed to file submission during the penalty proceedings. The AO levied penalty of Rs.25,000/- under section 271A of the Act. The assessee filed an appeal before the Id.CIT(A). The Id.CIT(A) upheld the penalty order passed by the AO. The para 5 of the Id.CIT(A) order is as under:

“5. I have carefully considered the above submissions of the appellant. As per the contention of the appellant himself, the appellant is maintaining only the cash book. That would not suffice as the appellant is required to maintain complete set of books of accounts that should include the Ledger, stock register etc. It is further seen that the AO has stated that the appellant did not file any response to the show cause notice of penalty, whereas before me the appellant has stated that a letter dated 28/06/2016, was filed before the AO in response to show cause notice u/s.271A of the Act. A copy of this letter has also been filed before me but the same does not bear any stamp or signature to show that the same was received by the AO or his office. Last but not the least, in the reply filed during the course of appellate proceedings on 28/08/2017, it has been stated that a copy of cash book and petty cash book is being submitted. However, no such document has been attached with the reply. In this background, the contention of the appellant that he was maintaining books of accounts cannot be accepted. Accordingly, the penalty of Rs.25,000/- levied by the AO u/s.271A is upheld. Ground No.2 is dismissed.”

3. Being aggrieved with the order of the Id.CIT(A), the assessee filed appeal before this Tribunal. The Id.Authorised Representative(Id.AR) submitted that the appellant has been maintaining cash book and petty cash book which were submitted before the AO.

3.1 The Income Tax Rule 6F is reproduced as under:

6F. (1) Every person carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or

authorised representative or film artist shall keep and maintain the books of account and other documents specified in sub-rule (2) :

[Provided that nothing in this sub-rule shall apply in relation to any previous year in the case of any person if his total gross receipts in the profession do not exceed one lakh fifty thousand rupees in any one of the three years immediately preceding the previous year, or, where the profession has been newly set up in the previous year, his total gross receipts in the profession for that year are not likely to exceed the said amount.]

(2) The books of account and other documents referred to in sub-rule (1) shall be the following, namely:—

- (i) a cash book;*
- (ii) a journal, if the accounts are maintained according to the mercantile system of accounting;*
- (iii) a ledger;*
- (iv) carbon copies of bills, whether machine numbered or otherwise serially numbered, wherever such bills are issued by the person, and carbon copies or counterfoils of machine numbered or otherwise serially numbered receipts issued by him;*
- (v) original bills wherever issued to the person and receipts in respect of expenditure incurred by the person or, where such bills and receipts are not issued and the expenditure incurred does not exceed fifty rupees, payment vouchers prepared and signed by the person.*

[Provided that the requirements as to the preparation and signing of payment vouchers shall not apply in a case where the cash book maintained by the person contains adequate particulars in respect of the expenditure incurred by him.]

(3) A person carrying on medical profession shall, in addition to the books of account and other documents specified in sub-rule (2), keep and maintain the following, namely :—

- (i) a daily case register in Form No. 3C;*
- (ii) an inventory [under broad heads,] as on the first and the last day of the previous year, of the stock of drugs, medicines and other consumable accessories used for the purpose of his profession.*

4. The Id.Departmental Representative (Id.DR) for the Revenue relied upon the order of Id.CIT(A) and order passed by the AO.

5. As per Income Tax Rule 6F the appellant i.e. Doctor has to maintain the books of accounts mentioned in the Rule 6F. The Id.AR submitted that the appellant is maintaining cash book and petty cash book. Even before the Id.CIT(A) the appellant had submitted that the appellant maintained cash book and petty cash, thus, it is a fact that the appellant had failed to maintain books of accounts mentioned in the Rule 6F. The Rule 6F(3) specifically

provides for additional books and documents to be maintained by Medical Professionals in addition to their regular books mentioned in Sub-Rule 2 of Rule 6F. Thus, medical professionals has to maintain daily case register and inventory of the medicine stock. On a specific enquiry from the Bench, the ld.AR could not answer the question whether appellant Doctor had maintained the daily case register and medicine stock register. Thus, it is a fact that appellant Doctor had failed to maintain books of accounts. Therefore, the appellant is liable for penalty under section 271A of the Act for non-maintenance of the books of accounts. No reason has been provided for non-maintenance of the books. Therefore, the penalty order under section 271A is hereby confirmed.

6. In the result, appeal of the assessee is dismissed.

Order pronounced in the open Court on 15th March, 2022.

Sd/-
(S.S.VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 15th March, 2022/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-1, Pune.
4. The Pr. CIT cocerned, Pune.
5. विभागीयप्रतिनिधि,आयकरअपीलीयअधिकरण, “ए” बेंच,
पुणे / DR, ITAT, “A” Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकरअपीलीयअधिकरण, पुणे/ITAT,Pune.