



IN THE HIGH COURT OF DELHI

ITR No.334/82

Date of Decision: 9th April, 2001

Commissioner of Income-tax, Delhi-IVPetitioner

through: Mr.Sanjiv Khanna with
Ms.Prem Lata Bansal, Advocates

Versus

M/s.Medipac (P) Ltd.Respondent

through: None

CORAM:

THE HON'BLE MR.JUSTICE ARIJIT PASAYAT, CHIEF JUSTICE

THE HON'BLE MR.JUSTICE D.K. JAIN

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?

ARIJIT PASAYAT, C.J. (Oral)

At the instance of Revenue, following questions have been referred by Income-tax Appellate Tribunal Delhi Bench-B ('Tribunal' in short) under Section 256(1) of the Income-tax Act, 1961 (in short 'the Act') for opinion of this Court:

"1. Whether on the facts and in the circumstances of the case, the Tribunal was correct in holding that the provisions of Sec.271(1)(c) and Sec.273 are pari materia and the burden of proving that the estimate of advance tax as filed by the assessee was false to its knowledge lay on the Department ?"

"2. Whether on the facts and in the circumstances of the case, the Tribunal



was right in law in holding that Revenue had to produce some material to show that assessee had in this year earned income of Rs.1.00 lakh although the assessee itself had disclosed it under the V.D.Scheme in respect of this year ?"

"3. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in confirming the order of the CIT(A) and cancelling the penalty levied by the IAC (Asstt.)?"

We have heard learned counsel for Revenue. There is no appearance on behalf of assessee in spite of notice.

We had occasion to deal with the question of penalty under Section 271(1)(c) of the Act in ITR No.314/82 and following the decision of this Court in CIT v. La Medica (1992) 198 ITR 327 it was held that the Tribunal was not justified in cancelling the penalty under Section 271(1)(c) of the Act. So far as Section 273(a) of the Act is concerned, the logic is equally applicable. The parameters are not entirely different. Therefore, the Tribunal was not justified in cancelling the penalty under Section 273(a) of the Act. Accordingly, we answer the first question, so far as Section 273(a) is concerned, in the negative, in favour of Revenue and against assessee. In view of the answer to first question, it is unnecessary to answer the other two questions referred.

The reference stands disposed of.


CHIEF JUSTICE


D.K.JAIN, J.

9th April, 2001
"v"