



% 16.07.2009

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Present: Mr. N.P. Sahini with Mr. P.C. Yadav, Advs. for the appellant.

None for the respondent.

+ITA No. 63/2009

The assessee had declared the income of Rs.3,06,720/- against which the assessment was completed under Section 143(3) at a total income of Rs.15,74,772/-. Simultaneously, AO also initiated penalty proceedings under Section 271(1)(c) and a penalty of Rs.4,51,581/- was levied. It was because of the reason that according to the AO, deduction is allowable in net income and not on gross foreign exchange receipts and in spite of the clear position of law, the assessee had filed the return claiming deduction of gross income on foreign exchange receipts.

In the present case, we are concerned with the validity of the penalty proceedings. The CIT(A) set aside the penalty proceedings, which order has been affirmed by the ITAT in its orders. It is found by both the CIT(A) as well as ITAT that no doubt, claim made by the assessee made a wrong one, but that would not be a ground for imposition of penalty inasmuch as determination of the claim under



harmoniously interpretation of Section 80AB and 80-O of the Income Tax Act. Insofar as the assessee is concerned, he had furnished all the particulars and there were no inaccurate particulars. Finding of the fact was arrived that the assessee was under *bona fide* plea that the deduction was admissible on the gross amount. These are the findings of fact which are recorded by the CIT (Appeals) and the Tribunal in appeal.

In these circumstances, we are of the opinion that no case is made out for interference in the judgment made by CIT(A) as well as ITAT.

No substantial question of law arises for our consideration in this appeal, which is accordingly dismissed.


A.K. SIKRI, J.


VALMIKI J. MEHTA, J.

July 16, 2009
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