

(2000) 09 P&H CK 0089

High Court Of Punjab And Haryana At Chandigarh

Case No: Income Tax A. No. 159 of 1999 5 September 2000

Commissioner of
Income Tax

APPELLANT

Vs

Nav Bharat Traders

RESPONDENT

Date of Decision: Sept. 5, 2000

Acts Referred:

- Income Tax Act, 1961 - Section 271(1)(c)

Citation: (2001) 249 ITR 255

Hon'ble Judges: R.L. Anand, J; Nirmal Singh, J

Bench: Full Bench

Advocate: R. P. Sawhney with Raiesh Bindal, for the Revenue None appeared, for the Assessee, for the Appellant;

Judgement

The challenge in this appeal is to the order dated February 2, 1999, passed by the Income Tax Appellate Tribunal, Delhi Bench "A", Delhi, vide which the penalty u/s 271(1)(c) was deleted.

2. After hearing counsel for the appellant. We are of the opinion that the following question of law is required to be formulated in this case :

"Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was justified in directing to delete the penalty u/s 271(1)(c) amounting to Rs. 45,595 and whether the assessing authority was required by law to establish concealment beyond the shadow of doubt despite the existence of Explanation 1 to section 271(1)(c), which raises a presumption against the assessee and shifts the onus upon him ?"

Counsel for the appellant invited our attention to the provisions of Explanation 1 added to section 271(1)(c), and submits that as per this Explanation, with effect from 1-4-1976, the onus has been shifted upon the assessee and he has to show that the

explanation which he has furnished is correct.

We are of the opinion that the matter has not been rightly looked into in the right perspective by the learned Tribunal.

In this view of the matter, we allow this appeal and set aside the impugned order dated 2-2-1999, and the penalty of Rs. 45,595, which was ordered to be deleted by the Tribunal is hereby set aside and the order of the assessing officer stands restored.