

(2012) 02 AP CK 0007
Andhra Pradesh High Court
Case No: ITTA No. 526 of 2011

Commissioner of Income Tax

APPELLANT

Vs

Ms. Sania Mirza

RESPONDENT

Date of Decision: Feb. 9, 2012**Acts Referred:**

- Income Tax Act, 1961 - Section 143(1)

Citation: (2013) 259 CTR 386**Hon'ble Judges:** Madan B. Lokur, C.J; Sanjay Kumar, J**Bench:** Division Bench**Final Decision:** Dismissed

Judgement

Madan B. Lokur, C.J.

The Revenue is aggrieved by an order dt. 9th Oct., 2009 passed by the Tribunal, Hyderabad Bench-A, Hyderabad in ITA No. 230/Hyd/2009, relevant for the asst. yr. 2004-05. The assessee is a renowned professional international tennis player. She filed her return of income for the asst. yr. 2004-05 declaring a total income of Rs. 94.605. Along with her return of income, she filed a statement of affairs wherein she disclosed that she had received Rs. 30.63,310 as awards from the Government and from other institutions. This amount was not offered to tax although it was disclosed in the statement of affairs along with the return.

2. The AO processed the return under s. 143(1) of the IT Act, 1961 (for short "the Act") and accepted the return of income.

3. Later on the assessment was reopened by issuing a notice to the assessee and when the assessment was reopened, she voluntarily offered Rs. 30,63,310 for tax. Before the AO, her advocate/chartered accountant stated that the amount was shown in the capital account and was not shown as a capital receipt. But since the issue had arisen, it was being offered as taxable income.

4. The AO accepted the amount as taxable income and levied the tax accordingly.
5. However, in addition to levying tax, the AO decided to impose penalty of Rs. 10,14,582 on the ground that the assessee had furnished inaccurate particulars of her income and concealed her income.
6. The view of the AO was upheld by the CIT(A). On further appeal, the Tribunal was of the view that the assessee had not acted in a mala fide manner and it could not be said that her actions were deliberate. It was in fact a bona fide mistake made on her behalf by her advocate/chartered accountant and there was no concealment of income by her nor was there a furnishing of inaccurate particulars. The amount had been clearly mentioned in the statement of affairs and the AO had initially accepted the return, after processing it under s. 143(1) of the Act. It was accordingly held that it was not a case for imposition of penalty.
7. We have heard learned counsel for the Revenue and find that there is nothing to suggest that the assessee acted in a manner such as to lead to the conclusion that she had concealed the particulars of her income or had furnished inaccurate particulars of income. The admitted position is that the amount of Rs. 30,63,310 was shown by her in the return. That being the position, it cannot be said that there was any concealment. There is no dispute about the fact that the amount was correctly mentioned and therefore, there is also nothing inaccurate in the particulars furnished by her. The only error that seems to have been committed was that it was not shown as a capital receipt. But as soon as this was pointed out, the error was accepted and the amount was surrendered to tax.
8. In our opinion this is not a fit case for imposition of penalty.
9. No substantial question of law arises for consideration.
10. The appeal is accordingly dismissed. The miscellaneous application is also dismissed.