

**IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "A", PUNE**

Before Shri Shailendra Kumar Yadav, Judicial Member,  
and Shri G.S.Pannu, Accountant Member.

ITA.No.1121/PN/2011  
(Asstt. Year : 2007-08)

Amruta Organics Pvt. Ltd.,  
B-24, Stice Ltd.,  
Sinnar,  
Nashik.  
PAN: AACCA3727D

.. Appellant

Vs.

DCIT, Circle-1,  
Nashik.

.. Respondent

Assessee by	:	Shri M.K.Kulkarni
Department by	:	Ms.Ann Kapthuama
Date of Hearing	:	21.03.2013
Date of Pronouncement	:	22.03.2013

**ORDER**

**PER G.S.PANNU, AM:**

This appeal by the assessee is directed against the order of the CIT(A) dated 23.06.2011 and arises from an order passed by the Assessing Officer dated 22.06.2010 levying penalty u/s.271(1)(c) of the Income Tax Act, 1961 (in short 'the Act') amounting to Rs.64,320/- in relation to the A.Y. 2007-08.

2. The CIT(A) has since upheld the penalty levied by the Assessing Officer and thus the appeal of the assessee before the Tribunal.

3. In brief, the facts are that the appellant is engaged in the business of manufacturing of Para Cresyl Phenly Accetate, a chemical product. The return of income for the A.Y. 2007-08 was filed declaring a loss of Rs.16,99,348/- which was subject to a

scrutiny assessment u/s.143(3) of the Act dated 14.12.2009 whereby the total loss was determined at Rs.10,44,425/-. Subsequently, the Assessing Officer has held the assessee guilty of furnishing inaccurate particulars of income within the meaning of section 271(1)(c) of the Act with respect to the amount of Rs.1,91,085/- disallowed on account of a wrong claim of depreciation. Accordingly, a penalty equivalent to 100% of tax sought to be evaded on such income was levied amounting to Rs.64,320/-. The CIT(A) has also upheld the levy, against which assessee is in appeal before us.

4. The plea of the assessee is that the wrong claim of depreciation was made without any intention of concealment. It was submitted that the Directors of the assessee company are technical persons not knowing the intricate provisions of the Act but are dependent on the advice of professionals for preparing income tax returns. As per the assessee, it was a mistake which was bonafidely made with no intention to evade taxes.

5. On the other hand, the Ld. DR appearing for the Revenue pointed out that the depreciation claimed was clearly a wrong, and therefore, the penalty has been rightly imposed in the present case.

6. Having considered the rival submissions, we find that the mere mistake in making of a claim in the return of income would not *ipso facto* reflect concealment or furnishing of inaccurate particulars of income in terms of section 271(1)(c) of the Act. The wrong claim of depreciation in the present case cannot be said to be made with an intention to evade taxes in as much as even after the disallowance of depreciation, the resultant income of the assessee remains a loss. In fact, the assessee had pointed out before the Assessing Officer that it has been incurring losses since the year 2003 due to the market forces. Considering the entirety of the circumstances, in our view, the impugned disallowance on account

of depreciation is a mistake, and does not invite the provisions of section 271(1)(c) of the Act.

7. In the result we set aside the order of the CIT(A) and direct the Assessing Officer to delete the penalty imposed u/s.271(1)(c) amounting to Rs.64,32/-.

8. In the result, the appeal of the assessee is allowed.

Pronounced in the open court on this the 22<sup>nd</sup> day of March, 2013.

Sd/-  
( SHAILENDRA KUMAR YADAV )  
JUDICIAL MEMBER

Sd/-  
( G.S.PANNU )  
ACCOUNTANT MEMBER

gsps

Pune, dated the 22<sup>nd</sup> March, 2013

Copy of the order is forwarded to:

1. The Assessee
2. The DCIT, Circle-1, Nashik.
3. The CIT(A)-I, Nashik.
4. The CIT-I, Nashik.
5. The DR "A" Bench, Pune.
6. Guard File.

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By Order

Private Secretary,  
Income Tax Appellate Tribunal,  
Pune.