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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **INCOME TAX APPEAL NO. 744/2014**

Date of decision: 9th December, 2014

COMMISSIONER OF INCOME TAX DELHI -2. Appellant

Through Mr. Rohit Madan, Advocate.

versus

COMPRO TECHNOLOGIES PVT.LTD. Respondent

Through Nemo.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE V. KAMESWAR RAO

SANJIV KHANNA, J. (ORAL):

This appeal by the Revenue challenges the order of the Income Tax Appellate Tribunal (Tribunal, for short) deleting penalty under Section 271(1)(c) of the Income Tax Act, 1961 (Act, for short). The appeal pertains to Assessment Year 2009-10.

2. The finding of the Tribunal is that the assessee had discharged the onus and established their bona fides for the purpose of Explanation 1 to Section 271(1)(c) of the Act. The Chartered Accountant of the respondent-assessee had filed his own personal affidavit accepting his fault that he had misunderstood and misinterpreted the provisions of Section 115JB of the Act. Computation of book profits under Section

115JB requires skill and knowledge of accounts. The Act mandates and requires an assessee to file Form No. 29B from a Chartered Accountant. The computation made by the Chartered Accountant in this case in Form No. 29B was erroneous and he had owned his fault and mistake. This was the first year when Section 115JB was made applicable to companies covered by Section 10A of the Act. Thus, the explanation of the Chartered Accountant, who made an error in calculating book profits with reference to exempt income under Section 10A of the Act. Complexity had arisen due to interplay of Section 115JB with Section 10A of the Act.

3. On considering the factual matrix, the Tribunal has observed that the explanation and conduct did not reflect any attempt to propound an excuse which was sham or a ruse. The reason given was not a device to cover an ulterior purpose. The mistake made by the Chartered Accountant was a result of a human error in correctly interpreting and applying the complex interconnect between two sections. The error was bona fide. Noticeably, the assessee had realised their fault and had filed revised returns for the subsequent years.

4. The view and reasoning given by the Tribunal is plausible and objective. They have rightly relied on the findings and ratio in ***Price Waterhouse Coopers Private Limited versus CIT***, (2012) 348 ITR 306 (SC). Keeping in view the findings recorded by the Tribunal, we do not

think any substantial question of law arises for consideration. The appeal is accordingly dismissed.

SANJIV KHANNA, J.

V. KAMESWAR RAO, J.

DECEMBER 09, 2014
VKR