

HC upheld concealment penalty on assessee as it had filed nil return without paying the MAT liability

Summary – The High Court of Madras in a recent case of Sri Gokulam Hotels India (P.) Ltd., (the Assessee) held that where assessee filed nil return and failed to compute book profit and pay MAT, which it was liable to pay, levy of penalty was justified.

Facts

- The assessee carried on hotel business and filed nil return for the relevant assessment year. The Assessing Officer viewed that assessee was liable to pay Minimum Alternate Tax under section 115JB. Thereafter proceedings for levy of penalty under section 271(1)(c) was initiated for the failure of the assessee to compute the book profit and the MAT payable under section 115JB. The Assessing Officer was of the view that the assessee furnished inaccurate particulars of income and imposed penalty under section 271(1)(c).
- The Commissioner (Appeals) held that liability had arisen on account of difference in interpretation of section 115JB and assessee could not be held to have concealed its income or had furnished inaccurate particulars. The Commissioner (Appeals) directed that penalty levied under section 271(1)(c) be deleted.
- However, Tribunal partly allowed the appeal of Revenue by holding that assessee had failed to make proper computation and therefore, penalty was rightly imposed by the Assessing Officer.
- On appeal:

Held

- Findings of the Tribunal that in an admitted case of *nil* return, without complying with the provisions of section 115JB, where the assessee is liable to pay MAT and the non-compliance there of results in imposition of penalty in terms of section 271(1)(c), is correct. The Tribunal also found that only on account of the Assessing Officer's endeavour, the MAT liability came to be noticed. Therefore, there was a clear case of the assessee failing to furnish particulars necessary for the assessment and the case of the department that the assessee has furnished inaccurate particulars for the purpose of determining the tax under section 115JB stands established. As a result, penalty has to be levied as per the provisions of section 271(1)(c) and the Assessing Officer was justified in imposing such penalty.
- Accordingly, no question of law much less any substantial question of law arises for consideration in this Tax Case (Appeal). The Tax Case (Appeal) stands dismissed.