

HC upheld concealment penalty on failure of assessee to provide details of donees showing receipts of bogus gift

Summary – The High Court of Punjab & Haryana in a recent case of Kamal Kant Jain, (the Assessee) held that where assessee received gifts from NRI's and stated that same was received due to his financial difficulty which was found to be incorrect and further, he could not provide details of said donees, penalty levied under section 271(1)(c) was justified

Facts

- The assessee received gift of 1,00,000/- from 'A' and Rs. 5,46,575 from 'C' both NRIs through proper banking channel.
- The Assessing Officer treated said gifts as income from other sources and framed the assessment at Rs. 11,84,860. Penalty proceedings were also initiated against the assessee under section 271(1)(c) for concealment of particulars of income.
- On appeal, the Commissioner (Appeals) dismissed the appeal which was further affirmed by Tribunal.
- Thereafter, a notice under section 271(1)(c) was issued to the assessee to show cause as to why the penalty be not imposed for concealment of income. The Assessing Officer imposed penalty of Rs. 2,03,671 under section 271(1)(c).
- The Commissioner (Appeal) confirmed the penalty order which was further affirmed by the Tribunal.
- On appeal :

Held

- During the assessment proceedings the assessee was recorded in which the assessee was asked to give the addresses of such donees. It may be true that the assessee may not remember the full addresses but at least the persons who is giving a sum of Rs.1 lakh and Rs.5,46,575/-, he should have known the State or City of USA where such donees were living. This clearly shows that the gifts are bogus. About the occasion of the gift the assessee had stated that the gifts were received because the assessee was in a great financial difficulty. This is totally wrong. Huge bank balance in the Saving Bank Account in the Financial Year 2002-03 clearly show that the assessee was not in any financial difficulty and therefore, it is clear that these are bogus gifts. Therefore, the explanation given by the assessee is totally false and accordingly *explanation (1)* to section 271(1)(c) would not be attracted.
- In view of the above, it could not be said that there was no concealment.
- No substantial question of law arises in this appeal. Consequently, finding no merit, the instant appeal is dismissed.