

Penalty justified even if defaulter agrees to pay up: Tribunal

Even if a taxpayer, fearing he will be slapped with a penalty post a scrutiny assessment, comes clean and offers to pay tax on under-disclosed income, there is still ground enough to levy penalty for misstatements, held the Income-tax Appellate Tribunal in *B.R. TV vs Assistant Commissioner of Income-Tax*.

The petitioner had claimed depreciation on film equipment said to be costing Rs 11,00,000 but could not provide documentary proof in evidence of purchase of such equipment, just as he could not produce evidence for Rs 5,50,000 shown as loan from a person.

Merely offering to withdraw the depreciation claim and offering to pay tax on the fictitious loan would not absolve the assessee of his guilt. The Tribunal held that voluntary disclosure could not be taken as a revised return which, in any case, has to be filed within one year from the end of the relevant assessment year.

Even if it was filed on time, one could not claim immunity from penalty because a revised return is meant to facilitate correction of honest mistakes. Another factor conclusively proving the assessee's guilt was that the return was tax-audited and even in the next year's return, fictitious claims such as claiming depreciation on the fictitious asset persisted.

The Tribunal had, therefore, no hesitation in upholding the levy of penalty.

(The Hindu)