

IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCH 'C', BANGALORE

BEFORE SHRI. ABRAHAM P. GEORGE, ACCOUNTANT MEMBER

AND

SHRI. GEORGE GEORGE K, JUDICIAL MEMBER

I.T.A No.938/Bang/2014  
(Assessment Year : 2008-09)

Shri. A. S. Vaidyanathan,  
No.4084, Prestige Southridge,  
Hoskerehalli Cross, BSK III Stage,  
Bangalore 560 085  
PAN : AHPPA3615M

.. Appellant

v.

Income-tax Officer,  
Ward – 5(3), Bengaluru

.. Respondent

Assessee by : Shri. Sham R. Chakravarthy, CA  
Revenue by : Shri. Sunil Kumar Agarwala, JCIT

Heard on : 11.04.2016  
Pronounced on : 13.04.2016

**ORDER**

**PER ABRAHAM P. GEORGE, ACCOUNTANT MEMBER :**

Assessee through this appeal assails levy of penalty u/s.271(1)(c) of the Income-tax Act, 1961 ('the Act' in short), for the impugned assessment year, which was confirmed by the CIT(A) –II, Bengaluru.

02. In addition to the original grounds, assessee has also taken one additional ground of appeal which reads as under :

*“The order of penalty passed under section 271(1)(c) of the Act is bad in law as the notice issued under section 274 rws 271 is not discernable whether the penalty proceedings is initiated for concealment or for furnishing of inaccurate particulars under the facts and circumstances of the case.”*

03. Learned Counsel for the Assessee submitted that by virtue of the judgment of Hon’ble jurisdictional High Court in the case of CIT v. M/s. Manjunatha Cotton & Ginning Factory (359 ITR 565), a vague notice would invalidate the levy of penalty.

04. Ld. DR on the other hand submitted that this ground was taken by the assessee before the CIT (A).

05. We have perused the orders and heard the contentions. It might be true that Hon’ble jurisdictional High Court in the case of Manjunatha Cotton & Ginning Factory (supra) had emphasised the requirement of specifying the alleged failure of the assessee in the notice issued u/s.274 read with section 271(1)(c) of the Act. Nevertheless we also find that such a ground was never raised before the CIT (A). In the fitness of things, we are of the opinion that the issue regarding validity of penalty due to vagueness of the notice issued u/s.274 r.w.s.271 of the Act has to be

considered by the CIT (A). We therefore remit this issue to the CIT (A) for consideration in accordance with law.

06. In the result, appeal of the assessee is treated as allowed for statistical purpose.

Order pronounced in the open court on 13<sup>th</sup> April, 2016.

Sd/-

(GEORGE GEORGE K)  
JUDICIAL MEMBER

Sd/-

(ABRAHAM P GEORGE)  
ACCOUNTANT MEMBER

MCN

Copy to:

1. The assessee
2. The Assessing Officer
3. The Commissioner of Income-tax
4. Commissioner of Income-tax(A)
5. DR
6. GF, ITAT, Bangalore

By Order

Assistant Registrar