

आयकर अपीलीय अधिकरण पुणे न्यायपीठ "ए" पुणे में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "A", PUNE**

सुश्री सुषमा चावला, न्यायिक सदस्य एवं, श्री डी. करुणाकरा राव, लेखा सदस्य के समक्ष  
**BEFORE MS. SUSHMA CHOWLA, JM AND SHRI D. KARUNAKARA RAO, AM**

आयकर अपील सं. / ITA Nos.147 & 149/PUN/2017  
निर्धारण वर्ष / Assessment Years : 2008-09 & 2009-10

INA Bearings India Pvt. Ltd.,  
Plot No.A3, Talegaon Industrial Area,  
Navalkh Umbre,  
Tal. Maval Talegaon,  
Pune – 410507

.... अपीलार्थी/Appellant

PAN: AAACI7163H

Vs.

The Dy. Commissioner of Income Tax,  
Circle 11, Pune

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Shri Nimit M. Mehta  
प्रत्यर्थी की ओर से / Respondent by : Shri S.B. Prasad, CIT

सुनवाई की तारीख / <b>Date of Hearing : 09.04.2019</b>	घोषणा की तारीख / <b>Date of Pronouncement: 22.04.2019</b>
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**आदेश / ORDER**

**PER SUSHMA CHOWLA, JM:**

Both the appeals filed by assessee are against separate orders of CIT(A)-1, Pune, both dated 28.10.2016 relating to assessment years 2008-09 and 2009-10 against penalty levied under section 271(1)(c) of the Income-tax Act, 1961 (in short 'the Act').

2. Both the appeals of assessee on similar issue were heard together and are being disposed of by this consolidated order for the sake of convenience.

3. The assessee in ITA No.147/PUN/2017, relating to assessment year 2008-09 has raised the following grounds of appeal:-

*All the grounds of appeal in this appeal are mutually exclusive and without prejudice to each other.*

1. *The learned Commissioner of Income Tax (Appeals)-1 ["the CIT(A)"], Pune erred in fact and in law in confirming the action of the learned Deputy Commissioner of Income Tax, Circle 11, Pune ("the AO") in levying penalty of Rs.12,35,500/- u/s 271(1)(c) of the Income Tax Act, 1961 ["the Act"].*
2. *The learned CIT(A) erred in fact and in law in confirming the action of the AO in levying penalty despite the fact that the AO had levied penalty without considering the submissions made by the Appellant during the penalty proceedings and therefore the penalty order passed is bad in law.*
3. *The learned CIT(A) erred in fact and in law in confirming the action of the AO in levying penalty despite the fact that the AO failed to point out whether the penalty is levied for concealment of particulars of income or for furnishing inaccurate particulars of income.*

4. The only issue raised in both the appeals is against levy of penalty under section 271(1)(c) of the Act.

5. Before going into the merits of said levy of penalty under section 271(1)(c) of the Act, we refer to the satisfaction recorded by the Assessing Officer while initiating penalty proceedings. The Assessing Officer vide para 8 had held that *Since the assessee has furnished inaccurate particulars of its income, penalty proceedings u/s 271(1)(c) of the I.T. Act are being initiated separately.* While levying penalty, the Assessing Officer vide para 8 of penalty order had held that *The assessee case is therefore, hit by the provisions contained in Explanation 1 to section 271(1)(c) of the Act and penalty under section 271(1)(c) of the Act is leviable.* In view of non recording of proper satisfaction by the Assessing Officer while initiating penalty proceedings under section 271(1)(c) of the Act, wherein penalty was initiated for furnishing of inaccurate particulars of income and thereafter levied penalty for concealing the income; we find that in the absence of proper satisfaction being recorded and

proper show cause being given to the assessee, there is no merit in levy of aforesaid penalty under section 271(1)(c) of the Act.

6. We find support from the ratio laid down by the Hon'ble Bombay High Court in CIT Vs. Shri Samson Perinchery (2017) 392 ITR 4 (Bom), wherein it was held that where there is no proper satisfaction for initiating penalty proceedings and in the absence of proper show cause notice to the assessee, there is no merit in levy of penalty. Accordingly, we delete the penalty levied under section 271(1)(c) of the Act in both the appeals. The grounds of appeal raised by assessee in both the appeals are thus, allowed.

7. In the result, both the appeals of assessee are allowed.

Order pronounced on this 22<sup>nd</sup> day of April, 2019.

**Sd/-**  
**(D.KARUNAKARA RAO)**  
लेखा सदस्य / **ACCOUNTANT MEMBER**

**Sd/-**  
**(SUSHMA CHOWLA)**  
न्यायिक सदस्य / **JUDICIAL MEMBER**

पुणे / Pune; दिनांक Dated : 22<sup>nd</sup> April, 2019.  
GCVSR

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT(A)-1, Pune;
4. The Pr.CIT-4, Pune;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "ए" / DR 'A', ITAT, Pune;
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune