

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'G', NEW DELHI**

**Before Ms. Suchitra Kamble, Judicial Member**

**Dr. B. R. R. Kumar, Accountant Member**

**(Through Video Conferencing)**

**ITA No. 6456/Del/2016 : Asstt. Year : 2006-07**

**ITA No. 6458/Del/2016 : Asstt. Year : 2008-09**

Shri Sandeep Singh Madhok, D-97, Defence Colony, New Delhi-110024	Vs	ACIT, Central Circle-3, New Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAAPS4457P</b>		

**Assessee by : None**

**Revenue by : Sh. Prakash Dubey, Sr. DR**

**Date of Hearing: 18.02.2021**

**Date of Pronouncement: 25.03.2021**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeals have been filed by the assessee against the orders of the Id. CIT(A)-25, New Delhi dated 30.09.2016.

2. Since, the issues involved in both the appeals are common, they were heard together.

3. In ITA No. 6456/Del/2016, following grounds have been raised by the assessee:

*"1. That the Id. CIT(A) has erred in sustaining the penalty alleging that he appellant did not comply deliberately even though the Id. CIT(A) was specifically requested that the quantum has been heard and time be given.*

*2. That the Id. CIT(A) has erred in not following the principles of natural justice by not allowing the appellant a reasonable opportunity of being heard when it was specifically requested.*

*3. That the Id. CIT(A) has erred in sustaining the penalty of Rs.2,65,103/- imposed u/s 271(1)(c) of the Act without appreciating the facts of the case and detailed submissions made by the appellant.*

*4. That the Id. CIT(A) has erred in not adjudicating Ground Nos. 2 & 3 raised before him.*

*5. That the order imposing penalty is bad in law and void ab initio since in the show cause notice issued u/s 274 read with section 271 the Id. AO has not struck off the irrelevant clause of the notice, meaning thereby the AO has not apprise the assessee about the specific charge, under which assessee has been held guilty of penal action."*

4. On going through the undated order u/s 271(1)(c) of the Income Tax Act, 1961 for the assessment year 2006-07 and the order dated 22.03.2016 for the assessment year 2008-09, we find that a show-cause notice issued on 11.03.2014/30.01.2014 *"and duly served upon the assessee calling upon it that the assessee has concealed particulars of its true income and furnished inaccurate particulars of its income in terms of explanation 271(1)(c) of the Income Tax Act, 1961"*. Further, we find that the penalty has been levied by the AO as he was *"satisfied that the assessee has willfully concealed his income within the meaning of Section 271(1)(c) of the Act. The issue of suitable show-cause notice has been dealt by the Hon'ble Jurisdictional High Court. The relevant part of the order passed relying on the ratio laid down by the Hon'ble High Court in the case of M/s Havells India Ltd. Vs ACIT(LTU) in ITA No. 5060/Del/2013 A.Y. 2004-05 is as under:*

"6. We have gone through the penalty notice issued by the Assessing Officer and find that the penalty notice does not specify whether the penalty was proposed for concealment of particulars of income or for furnishing inaccurate particulars of such income in terms of provisions of Section 271(1)(c).

7. The Karnataka High Court in the case of CIT vs. Manjunatha Cotton and Ginning Factory: 359 ITR 565 held that notice under section 274 should specifically state the grounds mentioned in section 271(1)(c) of the Act, i.e., whether it is for concealment of income or for furnishing of incorrect particulars of income. Sending printed form where all the grounds mentioned in section 271 are mentioned would not satisfy requirement of law.

8. The jurisdictional Delhi High Court in the case of PCIT vs. Sahara India Life Insurance Co. Ltd. in ITA No. 475 of 2019, reiterated that notice under section 274 should specifically state the grounds on which penalty was sought to be imposed as the assessee should know the grounds which he has to meet specifically.

9. The aforesaid principle has been reiterated in the in the case of CIT vs. SSA'S Emerald Meadows: 73 taxmann.com 241 (Kar) [Revenue's SLP dismissed in 242 Taxman 180]

10. In the present case, too, in notice dated 29.12.2006 and on 23.12.2011 issued under section 274 read with section 271 of the Act, initiated penalty against the appellant for alleged 'concealment of income or furnishing of inaccurate particulars of such income', that is to say, the specific default was not specified by the assessing officer in the notice issued.

11. Hence, respectfully following the order of the Jurisdictional High Court, since the notice u/s 274 has not been specified as to whether penalty is proposed for alleged 'concealment of income' OR 'furnishing of inaccurate particulars of such income', the penalty levied is hereby obliterated."

5. Since, the facts of the instant case are similar to the above mentioned case, we hereby allow the appeals of the assessee.

6. As a result, both the appeals of the assessee are allowed.  
Order Pronounced in the Open Court on 25/03/2021.

Sd/-

**(Suchitra Kamble)**  
**Judicial Member**

**Dated: 25/03/2021**

\*Subodh\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**ASSISTANT REGISTRAR**