

**IN THE INCOME TAX APPELLATE TRIBUNAL
ALLAHABAD BENCH 'SMC' ALLAHABAD**

[THROUGH VIRTUAL COURT]

BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER

**I.T.A. No. 143/ALLD/2019
Assessment Year: 2008-09**

Late Sri Zia Usmani through L/H and wife Smt. Mehvish Usmani, 32, Elgin Road, Allahabad-211018	vs.	Commissioner of Income Tax (Appeals), Aayakar Bhavan, 38, M.G. Marg, Civil Lines, Allahabad-211001.
PAN: AAHPU 0807 G		
(Appellant)		(Respondent)

Appellant by	Shri Ashish Bansal, Adv.
Respondent by	Shri A.K. Singh, Sr. D.R.
Date of hearing	06/04/2021
Date of pronouncement	12/04/2021

ORDER

The appeal filed by the assessee is directed against the order dated 07.08.2019 and CIT(A) arising from penalty order passed u/s 271(1)(c) of the Income Tax for assessment year 2008-09.

2. The assessee has raised the following grounds:

1. *Because the Assessing Officer initiated the penalty u/s 271(1)(c) after death of the assessee on 28.04.2010 in the assessment order dated 31.12.2010.*
2. *Because the Assessing Officer initiated the penalty u/s 271(1)(c) without recording the satisfaction whether the penalty envisaged to be levied was for furnishing inaccurate particulars of income or for concealing particulars of income.*
3. *Because the Assessing Officer levied the penalty u/s 271(1)(c) vide order dated 27.02.2015 for both the assessee has filed inaccurate particulars and concealed the income.*
4. *Because the Assessing Officer passed the penalty order during the pendency of the quantum appeal before the Hon'ble I.T.A.T. which was finally set aside.*

5. *Without prejudice to the above, the Ld. CIT(A) did not give opportunity to depose in the case.*
6. *Because the Ld. CIT(A) erred both on the facts and in law in confirming the penalty order of the Assessing Officer.*
7. *Because the penalty order is generally bad both on facts and in law.*
8. *Because the appellant reserves the right to add/alter/rescind any ground of appeal.*

3. Ground No. 1 to 3 are regarding validity of the penalty order passed u/s 271(1)(c) on the ground that the Assessing Officer has not initiated the penalty proceedings for a definite default or a correct charge against the assessee. The Ld. AR of the assessee has submitted that the assessee is now represented by his legal representative/wife as he expired on 28.04.2010 after filing his return of income on 26.05.2008. The Ld. AR has submitted that the Assessing Officer has made an addition of Rs.7,19,036/- on account of unexplained deposits in the bank accounts of the deceased assessee. Since the assessee expired before he could participate in the scrutiny proceedings and therefore, the wife of the assessee was not in a position to explain the source of the deposit as she was not aware about the business activity and financial transactions carried out by her late husband. The Assessing Officer has not disputed the deposits in the bank account to the extent of the gross receipts from various business activities carried out by the deceased assessee. The Ld. AR has then referred to the satisfaction recorded by the Assessing Officer in the assessment order and submitted that the Assessing Officer has recorded the satisfaction on the ground that the assessee has concealed the particulars of income. Whereas the bank account and other details were duly furnished by the assessee in his return of income and Assessing Officer has made the addition by taking the transactions from the bank accounts of the assessee which was duly disclosed in the return of income. Thus it cannot be a case of concealment of particulars of income. He has then referred to the show cause notice issued u/s 274 of the Income Tax Act dated 31.12.2010 and submitted that the Assessing Officer has not specified the default/charged for which the penalty u/s 271(1)(c) was initiated by him. Thus the Ld. AR has submitted the

initiation of the penalty proceedings is not valid as the Assessing Officer has not specified the charged for which he propose to levy the penalty and consequently the penalty order passed by the Assessing Officer u/s 271(1)(c) is liable to be quashed for want of a valid initiation of the penalty proceedings. In support of his contentions he relied upon the following decisions :

- i. *Shri Kamalendra Bhadur Mishra v. DCIT (ITA No. 240/Alld/2017) dated 14.02.2020.*
- ii. *Taneja Rice & Dall Mills v. ACIT-II (ITA No. 548/Lkw/2017) dated 18.01.2019.*
- iii. *Shri Narasimha Reddy v. DCIT (ITA No. 1013 to 1016/M/2015) dated 04.12.2015.*
- iv. *HPCL Mittal Energy Ltd. v. Addl. CIT 81 taxmman.com 224 (Amritsar - Trib.) (TM) dated 07.05.2018.*

4. On the other hand, the Ld. DR has submitted that the Assessing Officer has initiated the scrutiny assessment during the lifetime of the assessee and only after the notice u/s 142(2) was issued by the Assessing Officer.

The assessee died and thereafter the legal representative of the deceased assessee participated in the assessment proceedings. He has further submitted that during the assessment proceedings the assessee has failed to explain the source of the deposits made in the bank account to the tune of Rs.7,19,036/-. Therefore, the Assessing Officer has rightly recorded the satisfaction for initiating the proceedings u/s 271(1)(c). He has further contended that as per section 271(1B) the Assessing Officer is required to record the satisfaction that the penalty proceedings are separately initiated. Thus at the time of recording the satisfaction it is not required on the part of the Assessing Officer to specify any charge. He has further contended that it is a clear case of failure on the part of the assessee to explain the source of deposit and consequently the penalty u/s 271(1)(c) is attracted. He has relied upon the orders of the authorities below.

5. I have considered the rival submissions as well as relevant materials available on record. There is no dispute on the fact that the assessee Late Shri Zia Usmani filed his return of income on 26.05.2008 declaring total income of Rs.1,31,820/- after claiming the deduction u/s 80C of Rs.1,00,000/-. The case was taken for scrutiny under CASS and notice u/s 143(2) was issued on 27.08.2009. However, later on the Assessing Officer again issued notice u/s 143(2) and 142(1) on 03.08.2010 which is taken by Assessing Officer as initiation of scrutiny assessment as stated in the order passed u/s 271(1)(c). Prior to the said notice issued on 03.08.2010 the assessee expired on 28.04.2010. However, in response to the said notice the counsel for the assessee attended and furnished the details and explanation as well as bank statements for examination. On perusal of the record, the Assessing Officer found that there are deposits made in the bank account of the assessee to the tune of Rs.15,41,150/- and in the proprietorship concern account of Rs.68,900/-. The Assessing Officer asked the assessee to explain the source of these deposits. The wife of the assessee has explained that husband of the assessee was doing the business of providing contract service to telecom service providers as well as to ICICI Prudential Life Insurance Company. The gross receipts in respect of contract service during the year was accepted by the Assessing Officer to the tune of Rs.12,13,244/- which was subjected to TDS. Thus the Assessing Officer accepted the contract receipt as well as gross receipt from garment business of Rs.12,13,244/- and Rs.8,35,480/- respectively. After considering the source of deposit to the extent of contract receipt and garment business the Assessing Officer made an addition of Rs.7,93,036/- on account of unexplained deposits in the bank account. The Assessing Officer has recorded the satisfaction for initiating the penalty proceedings on at para 4 of the assessment order as under :

"The assessee has concealed the particulars of his income as such penalty proceedings u/s 271(1)(c) are initiated separately."

Thus the Assessing Officer has recorded the satisfaction by citing a definite charge against assessee for concealment of particulars of income. In the show cause notice issued u/s 274 r.w.s. 271 dated 31.12.2010 the Assessing Officer has initiated penalty proceedings on the charge "you have concealed the particulars of your income or furnished inaccurate particulars of such income". It is clear from the show cause notice that the Assessing Officer not specified the charge for which the penalty proceedings were initiated. Even the Assessing Officer was not sure about default/charge at the time of issuing the show cause notice. Finally, the Assessing Officer has levied the penalty u/s 271(1)(c) by recording his finding that the assessee has filed inaccurate particulars and concealed income. The Assessing Officer has levied the penalty on both charges i.e. inaccurate particulars of income and concealment of income. This reason of levying the penalty is not factually correct as bank account in which the deposits are made has been disclosed by the assessee and complete particulars were furnished showing all the transaction. It is only due to the failure on the part of legal heir of the deceased assessee to explain the source of part of the deposits. In the bank account, the Assessing Officer made the addition. Hence, the addition was not made because of the reason that the assessee has concealed the particulars of income but it is only because of the reason that the legal representative/the widow of the deceased assessee could not explain the source of part of the deposits made in the bank account by deceased assessee. The Assessing Officer has accepted the contract receipt and garment business receipt and therefore, it cannot be ruled out that the deposit which could not be explained by the widow of the deceased assessee may be available as cash opening balance as the assessee was doing the business. Therefore, merely because the legal representative of the assessee failed to explain the deposits in the bank account would not *ipso facto* lead to the

conclusion that it represents an undisclosed income or concealed income. The particulars regarding deposits as well as the contract receipt and business receipt were all explained and available with the Assessing Officer and therefore it is not a case of concealment of particulars of income but it may be a case of furnishing inaccurate particulars of income.

6. The Co-ordinate Bench of the Tribunal in case of Shri Kamalendra Bhadur Mishra v. DCIT (supra) has held in para 5 to 12 as under :

“5. Heard. The show-cause notice in question is as follows:

NOTICE UNDER SECTION 274 READ WITH SECTION 271 OF THE INCOME TAX ACT, 1961

*To,
Shri Kamalendra Bhadur Mishra
Prop. M/s K.S. Engineering III-19,
JME Colony Shakti dNagar, Sonebhadra*

Whereas in the course of proceedings before me for the assessment year it appears to me that you:-

**have without reasonable cause failed to furnish me return of income which you were required to furnish by a notice given u/s 22(1)/22(234) of the Indian Income Tax Act, 1922 or which you were required to furnish u/s 139(1) or by a notice given u/s 139(2)/148 of the Income Tax Act, 1961. No.....dated.....or have without reasonable cause failed to furnish it within the time allow and the manner required by the said section 139(1) or by such notice.*

**have without reasonable cause failed to comply with a notice u/s 22(4)/23(2) of the Indian Income Tax Act, 1922 or u/s 142(1) 143(2) of the Income Tax Act, 1961.*

**have concealed the particulars of your income.....furnished inaccurate particulars of such income.*

You are hereby requested to appear before me at 11.30AM/PM on 03.04.2014 and show cause why an order imposing a penalty on you should not be made u/s 271 of the Income Tax Act, 1961. If you do not wish to avail yourself of this opportunity of being heard in person or through authorized representative, you may show cause in writing on or before the said dated which will be considered before any such order is made u/s 271(1)(c).

Assessing Officer

6. From a perusal of this notice, it is crystal clear that the charge for which penalty is proposed to be levied under section 271(1)(c) of the Act, whether for concealment of income, or for furnishing of inaccurate particulars of income, is not specific. The law mandates that the authority, who is proposing to impose penalty, shall be certain as to the basis on which the penalty is being levied and the notice must reflect that specific reason, so that the assessee, to whom such notice is given, can prepare himself regarding the defence, which he would like to take to support his case. This is even enshrined in the principles of natural justice and as has been upheld by Hon'ble Apex Court and other High Courts.

7. In 'CIT vs. SSA's Emerald Meadows', [2016] 73 Taxmann.com 248, the Hon'ble Apex Court looked into the facts before them that Tribunal relying on the decision of Division Bench of Hon'ble Karnataka High Court in the case of CIT and Another vs. Manjunath Cotton & Ginning Factory (supra) allowed the appeal of the assessee holding that notice issued by the Assessing Officer under section 274 read with section 271(1)(c) of the Act was bad in law, as it did not specify under which limb of section 271(1)(c) of the Act, penalty proceedings has been initiated, i.e., whether for concealment of particulars of income or furnishing of inaccurate particulars of income. When the matter travelled upto the High Court, it supported the judgment of Hon'ble Karnataka High Court in the case of CIT and Another vs. Manjunath Cotton & Ginning Factory (supra) and decided that there was, therefore, no substantial question of law to be decided. Thereafter, an SLP was filed before the Hon'ble Apex Court and the Apex Court dismissed the SLP of the Revenue finding no merit therein and confirming the issue in favour of the assessee.

8. In 'CIT and Another vs. Manjunath Cotton & Ginning Factory', [2013] 359 ITR 565 (Karn.), it has been held by the Hon'ble High Court that notice under section 274 read with section 271(1)(c) of the Act 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 inaccurate particulars of income. Sending printed form, where all the grounds mentioned would not satisfy the requirement of law. The assessee should know the grounds which he has to meet specifically. Otherwise, the principles of natural justice is offended. On the basis of such proceedings, no penalty could be imposed to the assessee. Penalty proceedings are distinct from assessment proceedings, though it emanates from the assessment proceedings; still it is separate and independent proceedings all together.

9. In 'Meherjee Cassinath Holdings Pvt. Ltd vs. ACIT (ITAT Mumbai)', ITA No. 2555/MUM/2012, order dated 28/04/2017, the observation of the Bench was that penalty proceedings under section 271(1)(c) of the Act are "quasi-criminal" proceedings and ought to comply with the principles of natural justice. The nonstriking of the irrelevant portion in the show-cause notice means that the Assessing Officer is not firm about the charge against the assessee and the assessee is not made aware as to which of the two limbs of section 271(1)(c) he has to respond.

10. In 'Chandra Prakash Bubna vs. Income Tax Officer, Ward 27(3), Kolkata', (ITAT Kolkata Bench) [2015] 64 taxmann.com 155, it was held that when the Assessing Officer levied penalty without bringing out any specific charge for which penalty had been imposed, penalty was liable to be deleted.

11. In "Madan Lal Kishori Lal vs. CIT" 197 CTR (All) 144, wherein, the Hon'ble Allahabad High Court, following 'K.P. Madhusudanan' in Civil Appeal No. 6465/2000 (SC), has held that Explanation-1 applies whether or not the Assessing Officer has invoked it in the order or in the notice. This judgment is not an authority for the issue under consideration before the Bench. The

judgment explains the scope of Explanation- 1 appended to section 271(1)(c) of the Act. It has been held that the onus of the assessee will not get discharged by furnishing an explanation without any further proof; that in Explanation-1 to section 271(1)(c), the onus is the assessee; that where the AO issues a notice to the assessee, he makes the assessee aware that the provisions thereof are to be used against him and these provisions include Explanation-1 to section 271(1)(c); that where the returned income is less than 80% of the assessed income, the Explanation is automatically attracted. In the case under consideration, however, the issue is not about the applicability or non-applicability of Explanation-1 to section 271(1)(c), the issue is regarding the validity and legality of the notice. It is only when a valid notice is issued, that the question of considering the assessee's explanation/reply in the light of Explanation -1 would arise.

12. The settled legal position on the issue, as enshrined in the aforesaid cases, is apparent and we arrive at the considered view that the show cause notice, which has not specified the charge and limb under which the penalty is proposed to be levied, is void ab initio and the consequent penalty imposed on the basis of such notice is, therefore, illegal and bad in law and liable to be deleted. We, therefore, direct deletion of the penalty.

7. Similarly, in case of *Taneja Rice & Dall Mills v. ACIT (supra)*, the Lucknow Benches of the Tribunal has again considered an identical issue and held in para 5 to 6 as under :

5. *Heard. The show cause notice in question is as follows:*

NOTICE U/S 271(1)(c) READ WITH SECTION 274 OF THE INCOME TAX ACT, 1961.

*Office of the
Assistant Commissioner of Income Tax-II
Kanpur*

PAN:- AAFFR9585E

To,

*M/s Taneja Rice & Dall Mills,
123/356, Fazalganj
Kanpur-2080*

Sir/Madam,

Whereas in the course of proceedings before me for the assessment year 2003-04, it appears to me that you have concealed the particulars of income or furnished inaccurate particulars of such income as mentioned in the Assessment order dated 31/12/2007. Against this order you have failed an appeal before the Ld. CIT(A)-II, Kanpur who vide his order dated CIT(A)-II/827/DCIT-2/07-08/628 has dismissed your appeal.

You are hereby requested to appear personally or through authorized representative before me at 3rd floor, Aayakar Bhawan, 16/69, Civil Lines, Kanpur on 17.03.2016 at 11.00 AM and show cause why an order imposing a penalty on you should not be made under section

271(1)(c) of the Income Tax Act, 1961. If you do not wish to avail yourself of this opportunity of being heard in person or through authorized representative, you may show cause in writing on or before the said date which will be considered before any such order is made under section 271(1)(c) of the Income Tax Act, 1961.

From a perusal of this notice, it is crystal clear that the charge for which penalty is proposed to be levied under section 271(1)(c) of the Act, whether for concealment of income, or for furnishing of inaccurate particulars of income, is not specific. The law mandates that the authority who is proposing to impose penalty shall be certain as to the basis on which the penalty is being levied and the notice must reflect that specific reason, so that the assessee, to whom such notice is given, can prepare himself regarding the defence which he would like to take to support his case. This is even enshrined in the principles of natural justice and as has been upheld by Hon'ble Apex Court and other High Courts. We place reliance on the following cases:-

1. 'CIT vs. SSA's Emerald Meadows', [2016] 73 Taxmann.com 248 (SC). In this case the Hon'ble Apex Court looked into the facts before them that Tribunal relying on the decision of Division Bench of Hon'ble Karnataka High Court in the case of CIT and Another vs. Manjunath Cotton & Ginning Factory (supra) allowed the appeal of the assessee holding that notice issued by the Assessing Officer under section 274 read with section 271(1)(c) of the Act was bad in law as it did not specify under which limb of 271(1)(c) penalty proceedings has been initiated i.e. whether for concealment of particulars of income or furnishing of inaccurate particulars of income. When the matter travelled upto the High Court, it supported the judgment of Hon'ble Karnataka High Court in the case of CIT and Another vs. Manjunath Cotton & Ginning Factory (supra) and decided that there was therefore no substantial question of law to be decided. Thereafter an SLP was filed before the Hon'ble Apex Court and the Apex Court dismissed the SLP of the Revenue finding no merit therein and confirming the issue in favour of the assessee.

2. 'CIT and Another vs. Manjunath Cotton & Ginning Factory', [2013] 359 ITR 565 (Karn.). In this case, it has been held by the Hon'ble High Court that notice under section 274 read with section 271(1)(c) of the Act should specifically state the grounds mentioned in 271(1)(c) i.e. whether it is for concealment of income or for furnishing of inaccurate particulars of income. Sending printed form where all the grounds mentioned would not satisfy the requirement of law. Assessee should know the grounds which he has to meet specifically. Otherwise, the principles of natural justice is offended. On the basis of such proceedings no penalty could be imposed to the assessee. Penalty proceedings are distinct from assessment proceedings though it emanates from the assessment proceedings still it is separate and independent proceedings all together.

3. 'Meherjee Cassinath Holdings Pvt. Ltd vs. ACIT (ITAT Mumbai)', ITA NO. 2555/MUM/2012, order dated 28/04/2017 wherein the observation of the Bench was that penalty proceedings under section 271(1)(c) of the Act are "quasi-criminal" proceedings and ought to comply with the principles of natural justice. The nonstriking of the irrelevant portion in the show-cause notice means that the Assessing Officer is not firm about the charge against the assessee and the assessee is not made aware as to which of the two limbs of s. 271(1)(c) he has to respond.

4. '*Chandra Prakash Bubna vs. Income Tax Officer, Ward 27(3), Kolkata*', (ITAT Kolkata Bench) [2015] 64 taxmann.com 155 wherein it was held that when the Assessing Officer levied penalty without bringing out any specific charge for which penalty had been imposed, penalty was liable to be deleted.

5. '*Sachin Arora vs. ITO*' and other cases, order dated 19.12.2017 passed by the Agra Bench of the Tribunal in ITA No.118/Agra/2015 etc.

6. *The settled legal position on the issue, as enshrined in the aforesaid cases, is apparent and we arrive at the considered view that the show cause notice, which has not specified the charge and limb under which the penalty is proposed to be levied, is void ab initio and the consequent penalty imposed on the basis of such notice is, therefore, illegal and bad in law and liable to be deleted. We, therefore, direct deletion of the penalty.*"

8. In the case in hand, the Assessing Officer has recorded the satisfaction for initiation of penalty on incorrect charge and the penalty was also levied for an incorrect charge of inaccurate particulars of income and concealment of particulars of income which is not possible in the case of the assessee when the addition was made in respect of only one issue i.e. the source of deposit in the bank account. The Third Member decision in case of HPCL Mittal Energy Ltd. v. Addl. CIT (supra) has held in para 15 to 17 as under :

"15. The moot question is that what should be the nature of specification of a charge by the AO at the stage of initiation of penalty proceedings and at the time of passing the penalty order. Is the AO required to specify in the penalty notice/order as to whether it is a case of 'concealment of particulars of income'; or 'furnishing of inaccurate particulars of income'; or both of them, which can be expressed by using the word 'and' between the two expressions. When the AO is satisfied that it is a clear-cut case of concealment of particulars of income, he must specify it so in the notice at the time of initiation of penalty proceedings and also in the penalty order. The AO cannot initiate penalty on the charge of 'concealment of particulars of income', but ultimately find the assessee guilty in the penalty order of 'furnishing inaccurate particulars of income'. In the same manner, he cannot be uncertain in the penalty order as to concealment or furnishing of inaccurate particulars of income by using slash between the two expressions. When the AO is satisfied that it is a clear-cut case of 'furnishing of inaccurate particulars of income', he must again specify it so in the notice at the time of initiation of penalty proceedings and also in the penalty order. After initiating penalty on the charge of 'furnishing of inaccurate particulars of income', he cannot impose penalty by finding the assessee guilty of 'concealment of particulars of income'. Again, he cannot be uncertain in the penalty order as to concealment or furnishing of inaccurate particulars of income by using slash between the two expressions. When the AO is satisfied that it is a clear-cut case of imposition of penalty u/s 271(1)(c) of the Act on two or more additions/disallowances, one or more falling under the expression 'concealment of particulars of income' and the other under the 'furnishing of inaccurate particulars of income', he must specify it so by using the word 'and' between the two expressions in the notice at the time of initiation of penalty proceedings. If

he remains convinced in the penalty proceedings that the penalty was rightly initiated on such counts and imposes penalty accordingly, he must specifically find the assessee guilty of 'concealment of particulars of income' and also 'furnishing of inaccurate particulars of income' in the penalty order. If the charge is not levied in the above manner in all the three clear-cut situations discussed above in the penalty notice and also in the penalty order, the penalty order becomes unsustainable in law.

16. The Hon'ble Karnataka High Court in Manjunatha Cotton and Ginning Factory 359 ITR 565 (Kar) has held that a person who is accused of the conditions mentioned in section 271 should be made known about the grounds on which they intend imposing penalty on him as section 274 makes it clear that assessee has a right to contest such proceedings and should have full opportunity to meet the case of the Department and show that the conditions stipulated in section 271(1)(c) do not exist as such he is not liable to pay penalty. The Hon'ble High Court went on to hold that : 'Clause (c) deals with two specific offences, that is to say, concealing particulars of income or furnishing inaccurate particulars of income.... But drawing up penalty proceedings for one offence and finding the assessee guilty of another offence or finding him guilty for either the one or the other cannot be sustained in law. Thus once the proceedings are initiated on one ground, the penalty should also be imposed on the same ground. Where the basis of the initiation of penalty proceedings is not identical with the ground on which the penalty was imposed, the imposition of penalty is not valid'.

17. In CIT vs. Manu Engineering Works (1980) 122 ITR 306 (Guj) penalty was imposed by noting : 'that the assessee had concealed its income and/or that it had furnished inaccurate particulars of such income'. Striking down the penalty, the Hon'ble High Court held that : 'it was incumbent upon the IAC to come to a positive finding as to whether there was concealment of income by the assessee or whether any inaccurate particulars of such income had been furnished by the assessee. No such clear-cut finding was reached by the IAC and, on that ground alone, the order of penalty passed by the IAC was liable to be struck down.'"

Accordingly, in view of the facts and circumstances of the case and following the earlier decisions the initiation of penalty by the Assessing Officer without specifying the charge in the show cause notice and finally levying the penalty u/s 271(1)(c) against the incorrect charge renders the impugned order by the Assessing Officer as not sustainable in law and liable to be quashed.

9. Even on the merits of levy of penalty it is pertinent to note that the assessee has furnished all relevant details which were verified and examined by the Assessing Officer and the addition was made by the Assessing Officer due to the reason that the legal heir of the deceased assessee could not explain the part of the deposits made in the bank accounts. The mere failure on the part of the assessee/legal representative

to explain the deposits in the bank accounts would not *ipso facto* lead to the conclusion that the assessee has either furnished inaccurate particulars of income or concealed the particulars of income. The explanation during the assessment proceedings by the legal representative of the deceased assessee is *bona-fide* as provided in Explanation 1(B) to section 271(1)(c) of the Income Tax Act. Hence, the penalty levied by the Assessing Officer is not sustainable and liable to be deleted.

10. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 12th April, 2021.

Allahabad
Dated: 12/04/2021

Sd/-
(VIJAY PAL RAO)
Judicial Member

Copy forwarded to:
1. The Appellant
2. The Respondent
3. The CIT(A)
4. The CIT
5. The DR, I.T.A.T.
6. Guard File

By Order

(I.T.A.T., Allahabad)

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