

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES : BENCH "A" HYDERABAD**

(Through Video Conference)

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER
AND
SHRI L.P. SAHU, ACCOUNTANT MEMBER**

**I.T.A. No. 2117/Hyd./2018
A.Y : 2005-06**

Dy.CIT, Circle 16(2)
Hyderabad

vs. M/s Optiserv Muskan Service Pvt. Ltd.
Hyderabad

[PAN: AAACO5993P]

(Appellant)

(Respondent)

For Revenue: Smt. N. Esther, D.R.
For Assessee: Shri P. Murali Mohana Rao, C.A.

Date of Hearing : 01/06/2021
Date of Pronouncement : 12/07/2021

ORDER

PER S.S. GODARA, J.M.

This Revenue's appeal for A.Y. 2005-06 arises against the CIT(A)-4 Hyderabad's order dated 17.08.2018 passed in case no. 037/2017-18, involving proceedings u/s 271 (1)(c) of the Income Tax Act, 1961 [in short 'the Act'].

Heard both the parties. Case file perused.

2. Coming to the revenue's sole substantive ground challenging correctness of both learned lower authorities' action imposing sec. 271(1)(c) penalty of Rs. 99,00,000/- ; we notice that the Assessing officer's corresponding show

cause notice dated 30th March, 2017 nowhere specified as to whether it is instance of concealment of particulars of taxable income or furnishing of inaccurate particulars of such income; whatsoever.

3. Learned DR has strongly supported the impugned penalty imposed in both the lower proceedings.

4. We find no merit in revenue's instant argument since not only hon'ble jurisdictional high court decision in Pr.CIT vs Baisetty Revathi (2017) 398 ITR 88 (T&AP) holds that such a failure renders sec. 271(1)(c) penal action as not sustainable in law but hon'ble Bombay high court's latest full bench judgement in Mohd Farhan A Sheik vs. DCIT (2021) 125 taxman.com 253 (Bom.) has adopted the very line of action. We follow the same mutatis mutandis and delete the impugned penalty.

This Revenue's appeal is dismissed in above terms.

Pronounced in Open Court on 12th July, 2021.

Sd/-

**(L.P. SAHU)
ACCOUNTANT MEMBER**

Sd/-

**(S.S. GODARA)
JUDICIAL MEMBER**

Dated: the 12th July, 2021.

* gmv

Copy of the Order forwarded to:

1. DCIT, Circle 16(2), Hyderabad
2. M/s Optiserv Muskan Services (P) Ltd., 6th floor, Cyber towers, Hi-tech City, Madhapur, Hyderabad, Telangana
3. ACIT, Range 16, Hyderabad.
4. CIT(A)-4, Hyderabad
5. Pr.CIT-4, Hyderabad
6. DR, ITAT, Hyderabad.
7. Guard File.