

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE SH. LALIET KUMAR, JUDICIAL MEMBER  
AND DR. M. L. MEENA, ACCOUNTANT MEMBER**

**I.T.A. Nos. 48 to 53/Asr/2021  
Assessment Years: 2007-08 to 2012-13**

Smt. Ravneet Kaur Grewal, 1075, Sector 69, Mohali [PAN: BFNPK9092] <b>(Appellant)</b>	<b>Vs.</b>	DCIT, C.C.-1 Jalandhar.  <b>(Respondent)</b>
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<b>Appellant by</b>	<b>Sh. Sudhir Sehgal, AR.</b>
<b>Respondent by</b>	<b>Sh. DR</b>

<b>Date of Hearing</b>	<b>14.07.2021</b>
<b>Date of Pronouncement</b>	<b>20 .07.2021</b>

**ORDER**

**Per Dr. M. L. Meena, AM:**

This bunch of appeals is filed by the assessee against the order even dated 21.06.2021, passed by the CIT(A)-5, Ludhiana.

2. The assessee has raised the following common ground with of course varying amounts, in all the appeals as follows:

*“1. That the Ld. CIT(A), Ludhiana has erred in confirming the penalty u/s 271 (1)(c) to the tune of Rs. 11,930/-, which is against the facts and circumstances of the case.*

*2. That the Ld. CIT(A) has erred in not accepting the submissions of the assessee that the notice as issued for levying the penalty did not specify the specific charge against the assessee and, as such, the levy of penalty, is void abinitio as per number of judgments cited before the Worthy CIT (A) at pages 3 to 6 of the order of Ld.CIT(A).*

*3. That on facts and circumstances, the levy of penalty is wholly unjustified.*

*4. That the Appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off.”*

3. The assessee has challenged the impugned orders, confirming levy of penalty u/s 271(1)(c) by the ld. CIT(A) where the printed penalty notices did not specify any charge or specific charge against the assessee as irrelevant portion in the notices were not struck off and contended that such a levy of penalty was void ab initio and requested to be deleted.

4. At the beginning, the counsel for the assessee stated that in the earlier assessment order passed u/s 143(3) r.w.s 153A of the Act, the AO, has stated that penalty proceedings u/s 271(1)(c) were being initiated for the concealment of income and in the later years for furnishing inaccurate particulars. The ld. Counsel argued that the penalty proceedings are distinct from the assessment proceedings, although the proceedings of the levy of penalty may emanates from the assessment

order, however, being criminal in nature, it is independent and separate proceedings. He further submitted the notices issued u/s 274 r.w.s. 271 (1)(c) of the Act, for imposing penalties did not clearly states the specific charge by which the assessee has been covered. Again, he submitted that in the present case the AO has issued the common and blank printed format of notices for all the six independent year without striking of irrelevant portion, mentioning the specific charge or section in the notices and limb whether the assessee has concealed the income or furnished inaccurate particulars of income as discussed in the assessment order. Since the AO has not made the assessee's aware/known about the specific charge which the assessee has to explain in an answer to the quarry of the AO, as the relevant limb are not struck off. In support he placed reliance on the land mark judgment of Hon'ble Karnataka High Court in the case of CIT vs. S.S.A Emerald Meadows besides relying on number of judgments on various High Courts and appellate Tribunals as relied before the ld. CIT(A).

5. The ld. Counsel has referred to the decision of Hon'ble Bombay High Court in the case of Moh. Farhan A. Shaikh vs. DCIT 2021 125 taxmann.com 253 (Bombay) where it was held that assessment order clearly records satisfaction for imposition of penalty on one or other, or both grounds mentioned. In section

271(1)(c), the mere defect in a notice that not striking of irrelevant matter would vitiate penalty proceedings.

6. The Id. DR placed reliance on the impugned orders.

7. Heard both the sides and perused the rival contention and material on record referred thereof. The Ld AR stated at the bar that the CIT(A), Ludhiana has erred in confirming the penalty u/s 271 (1)(c) to the tune of Rs. 11,930/- for assessment year 2007-8 and varying amount in the following years against the facts and circumstances of the case. He argued that the CIT(A) has not appreciated the submissions of the assessee that the notice as issued for levying the penalty did not specify the specific charge against the assessee and, as such, the levy of penalty, was void abinitio as per number of judgments cited before the Worthy CIT (A) at pages 3 to 6 of the order of Ld. CIT(A). From the record, we have noted an admitted fact that the AO has issue a blank printed format notice without striking off irrelevant portion u/s 274 r.w.s. 271(1)(c) duly signed under its signature to the assessee. Copy of the notice in pdf, format for Assessment Year 2007-08 is reproduced hereunder:

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

**PAN: BFNPK9092P**

Office of the  
Deputy Commissioner of Income-tax,  
Central Circle-II, Jalandhar.  
Dated: 29.02.2016

To

**Smt. Ravneet Kaur,  
1013, Sector-67,  
Mohali.**

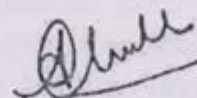
Whereas in the course of proceedings before me for the assessment year-2007-08 it appears to me that you:-

- Have without reasonable cause failed to furnish me return of income which you were required to furnish by a notice given under section 22(1)/22(2)/34 of the Indian Income-tax Act, 1922 or which you were required to furnish under section 139(1)/148 of the Income-tax Act, 1961, No -----dated -----or have without reasonable cause failed to furnish it within the time allowed and the manner required by the said section 139(1) or by such notice.
- Have without reasonable cause failed to comply with a notice under section 22(4)/23(2) of the Indian Income-tax Act, 1922 or under section 142(1)/143(2) of the Income-tax Act 1961.

No.-----dated-----

- Have furnished inaccurate/concealed particulars of Income, as discussed in the assessment order.

You are hereby requested to appear before me at 11.00 A.M./P.M. on 29.03.2016 and show cause why an order imposing a penalty on you should not be made under section 271(1)(c) of the of the Income-tax act, 1961. If you do not wish avail yourself of this opportunity of being heard in person or through authorised representative you may show cause in writing on or before the said date which will be considered any such order is made under section 271(1)(c).



( Aditya Shukla )  
Deputy Commissioner of Income-tax,

8. The facts regarding the nature of additions, reason of penalty as per assessment order, additions sustained in appeal, penalty imposed on addition, penalty amount disputed as furnished by assessee is reproduced hereunder:

Smt. Ravneet Kaur Penalty Chart.

A.Y.	NATURE OF ADDITION	ADDITION	REASON OF PENALTY (as pr A.Order)	SUSTAINED ADDITION IN APPEAL	PENALTY IMPOSED ON ADDITION	PENALTY AMOUNT
2007-08 (i)	Deposits Indian Bank	in 2,68,578	Concealment of Income (As per last line of Para 3.7(v) page no 5. of A.order u/s 143(3))	66,478	66,478	11,930
2008-09 (>)	Deposits Indian Bank	in 7,03,400	Concealment of Income (As per last line of Para 3.7(v) page no 5. of A.order u/s 143(3))	4,37,400	4,37,400	1,23,735
2009-10 (i)	Deposits Indian Bank	in 8,55,448	Concealment of Income (As per last line of Para 3.7(v) page no 5. of A.order u/s 143(3))	2,95,458	2,95,458	48,289
2010-11 (i)	Deposits Indian Bank	in 14,77,371	Concealment of Income (As per last para of 3.7(v) page no 5. of A.order u/s 143(3))	4,80,376	4,80,376	1,25,766
2011-12						

(i)	Deposits in Indian Bank	27,26,868		16,38,652	16,38,652	4,64,158
<b>2012-13</b>			Concealment of Income (As per last para of 3.7(v) page no 5. of A.order u/s 143(3)			
(>)	Deposits in Indian Bank A/c	16,30,733	Concealment of Income  (As per last line of Para 3.7(v) page no 5. of A.order u/s 143(3)	2,31,531	2,31,531	71,542

9. It is seen that the additions pertain to bank deposits and deduction claimed u/s 80C. The ld. CIT(A) had observed that the AO records satisfaction for imposition of penalty was for concealment of income, however, he omitted to strike off the irrelevant part of the blank printed format notice u/s 274 r.w.s. 271(1)(c) and thus without striking off the irrelevant portion in the notice contemplates in vitiating the penalty proceedings in view of the full bench Judgement of Hon'ble Bombay High Court in the case of "Moh. Farhan A. Shaikh", (Supra), where that CIT v. Kaushalya (Smt ) (1995] 216 ITR 660 (Bom)(HC) and Ventura Textiles Ltd. v. CIT [2020] 426 ITR 478 (Bom)(HC) were distinguished by following hon'ble Apex Court judgement in Dilip N. Shroff v. JCIT [2007] 291 ITR 519 (SC).

10. Thus, a mandatory condition is required regarding communication to the assessee and that ought to be a valid communication even if a notice contains no

matter but that the inapplicable portion shall be deleted. It is in the interest of fairness and justice that the notice must be précised and at the case, no room for ambiguity. Therefore, Hon'ble Apex Court in case of Dilip N. Shroff v. Jt. CIT 161 Taxman 218/291 ITR 519 (SC), approves a written ritualistic practice of issuing omnibus show cause notice that practice certainly betrays non application of mind and therefore, the information of mandatory procedure leading to penal consequences assumes or implies prejudice para 181. Consequently, it is held that Dilip N. Shroff (supra) address as betrayed non application of mind and disposed of the practice, to be or, of issuing notices and informed without deleting or striking of any applicable portion of that generic notice, para 191.

11. In the case of Moh. Farhan A. Shaikh (supra), the Hon'ble Bombay High Court has dealt with the issue of levy of penalty u/s 271(1)(c) r.w.s. 274 of the Act., vide its judgment dated 11.03.2021 considering all the previous judgments of Apex Court and High Courts, and it was held that the assessee must be informed of the grounds of the penalty proceedings only through statutory notice. An omnibus notice suffers from the vice of vagueness.

12. Considering the admitted fact that the AO has issued blank printed format notices, without striking off irrelevant portion u/s 274 r.w.s. 271(1)(c) duly signed under its signature. We understand that the AO while issuing Notice under section

271(1)(c) of the Income-tax Act, 1961 is under statutory obligation that the assessee must be informed of the grounds of the penalty proceedings only through statutory notice. These notices primarily suffered from ambiguity and the vice of vagueness, thus, vitiated the penalty proceeding.

13. In ITA no. **I.T.A. Nos. 49 to 53 /Asr/2021**, the facts are exactly similar and identical to the facts in the case of ITA no. **I.T.A. Nos. 48/Asr/2021** in *mutatis mutandis* in respect of printed format notice without striking off the irrelevant portion make it vague and ambiguous u/s 274 r.w.s. 271(1)(c) of the Act and vitiates the penalty proceedings.

14. Respectfully following the Hon'ble Bombay High Court in Moh. Farhan A. Shaikh (supra), and in the interest of all fairness and justice, we hereby delete the penalty levied u/s 271(1)(c) of the Act, in respect of all the six assessment years under appeal.

15. In the result, the bunch of appeals of the assessee is allowed.

**Order pronounced in the open court on 20.07.2021**

**Sd/-**

**(Laliet Kumar)**  
**Judicial Member**

*\*doc*

**Sd/-**

**(Dr. M. L. Meena)**  
**Accountant Member**

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By Order