

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH: BANGALORE**

**BEFORE SHRI GEORGE GEORGE K., JUDICIAL MEMBER  
AND  
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.587/Bang/2020
Assessment Year : 2011-12

M/s. Collabrant Incubators Pvt. Ltd. Old Address: No.29, 1 <sup>st</sup> Floor, 17 <sup>th</sup> Main, 33 <sup>rd</sup> Cross, 4 <sup>th</sup> Block, Jayanagar, Bangalore-560 041 Presently At: No.729, 38 <sup>th</sup> Cross, 16 <sup>th</sup> A Main, 4 <sup>th</sup> T Block, Jayanagar, Bangalore 560 041.  <b>PAN NO : AACCC5116G</b>	<b>Vs.</b>	ITO Ward-2(1)(2) Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Smt. R. Prathibha, A.R.
<b>Respondent by</b>	:	Shri Priyadarshi Mishra, D.R.

Date of Hearing	:	24.08.2021
Date of Pronouncement	:	26.08.2021

**ORDER**

**PER B.R. BASKARAN, ACCOUNTANT MEMBER:**

The assessee has filed this appeal challenging the order dated 10.2.2020 passed by Ld. CIT(A)-2, Bengaluru confirming the penalty of Rs.5,62,571/- levied by the A.O. u/s 271(1)(c) of the Income-tax Act,1961 [‘the Act’ for short].

2. We heard the parties and perused the record. The assessee is in the business of management consultancy and ancillary services. The assessment for the assessment year 2011-12 was completed by the A.O. by making following conditions:

(a)	<i>Disallowance u/s 14A of the Act</i>	<i>Rs. 1,31,033/-</i>
(b)	<i>Disallowance of bad debts written off</i>	<i>Rs.4,99,450/-</i>
(c)	<i>Disallowance of diminution in the value of investments</i>	<i>Rs.9,77,500/-</i>
(d)	<i>Disallowance of service tax</i>	<i>Rs.2,12,639/-</i>
	<b><i>Total</i></b>	<b><i>Rs.18,20,622/-</i></b>

3. Thereafter, the A.O. levied penalty of Rs.5,62,571/- u/s 271(1)(c) of the Act holding that the assessee company has furnished inaccurate particulars resulting in concealment of income in claiming the above said deductions. The assessee filed the appeal challenging the levy of penalty before Ld. CIT(A), but could not succeed and hence the assessee has filed this appeal before us.

4. At the time of hearing, the Ld. A.R. invited our attention to the copy of penalty notice issued to the assessee, which is placed at page No.6 of the paper book. The Ld. A.R. submitted that the A.O. has not struck off the irrelevant portion in the penalty notice. Hence it is not clear as to the limb under which the penalty proceedings were initiated. Inviting our attention to the assessment order, the Ld. A.R. submitted that the A.O. has merely stated that penalty u/s 271(1)(c) of the Act is initiated by issue of appropriate notice read with section 274 of the Act, i.e., the AO has not referred to the limb under which the penalty proceedings are proposed to be initiated. Accordingly, the Ld. A.R. submitted that the impugned penalty order is vitiated, as per the decision rendered by Hon'ble Karnataka High Court in the case of Manjunatha Cotton & Ginning Factory (359 ITR 565). The Ld. A.R. submitted that the A.O. had levied penalty u/s 271(1)(c) of the Act for assessment year 2012-13 and 2013-14, on identical disallowances made in those years. The coordinate bench, vide its order dated 13.3.2020 passed in ITA No.1709 & 1710/Bang/2019, has deleted the penalty by following

the decision rendered in the case of Manjunatha Cotton & Ginning Factory (supra).

5. We heard Ld. D.R., who supported the order passed by Ld. CIT(A).

6. Under the provisions of sec.271(1)(c), penalty can be levied either for concealment of particulars of income or for furnishing inaccurate particulars of income. Hence, it is imperative for the AO to mention the limb under which the penalty proceedings are initiated in respect of the additions made by the AO. Admittedly, the A O did not mention the limb under which penalty proceedings are initiated u/s 271(1)(c) of the Act in the assessment order. In the penalty notice also, we noticed that the A.O. did not struck off the inapplicable portion. Hence, it is not clear to the assessee as to the limb under which the AO has proceeded to initiate penalty proceedings. In the case of Manjunatha Cotton & Ginning Factory (supra), the Hon'ble jurisdictional Karnataka High Court has held that, if show cause notice is vague, no penalty can be imposed on the assessee on the basis of such notice. We also notice that in AY 2012-13 & 2013-14 also identical facts were available in respect of penalty proceedings initiated in those years. Accordingly, the coordinate bench has deleted penalty in those years following the decision rendered by the jurisdictional Hon'ble Karnataka High Court in the case of Manjunatha Cotton & Ginning Factory (supra).

7. Consistent with the view take in the above said order of the coordinate bench and also following the binding decision of jurisdictional Karnataka High Court in the case of Manjunatha Cotton & Ginning Factory, we hold that the impugned penalty order is not sustainable. Accordingly, we quash the impugned orders passed by the tax authorities.

8 . In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 26<sup>th</sup> Aug, 2021

**Sd/-**  
**(George George K.)**  
**Judicial Member**

**Sd/-**  
**(B.R. Baskaran)**  
**Accountant Member**

Bangalore,  
Dated 26<sup>th</sup> Aug, 2021.  
VG/SPS

**Copy to:**

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.