

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A" : HYDERABAD
(THROUGH VIDEO CONFERENCE)**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

I.T.A. No. 247/HYD/2020

Assessment Year: 2016-17

Asst.Commissioner of Income Tax, Central Circle-2(1), HYDERABAD	Vs	M/s.Divi's Laboratories Ltd. HYDERABAD [PAN: AAACD6745J]
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(Appellant)

(Respondent)

For Revenue : Shri Sunku Srinivas, DR
For Assessee : NONE

Date of Hearing : 08-09-2021
Date of Pronouncement : 16-11-2021

ORDER

PER S.S.GODARA, J.M. :

This Revenue's appeal for AY.2016-17 arises from the CIT(A)-12, Hyderabad's order dated 09-12-2019 passed in case No.10131 / 2019-20, involving proceedings u/s.271(1)(c) of the Income Tax Act, 1961 [in short, 'the Act'].

Case called twice. None appeared for the assessee's behest. It is accordingly proceeded *ex-parte*.

2. We now advert to the Revenue's sole substantive ground against the CIT(A)'s action deleting Section u/s.271(1)(c) penalty of Rs.61,32,255/- imposed in the Assessing Officer's order dt.26-12-2018.

3. It transpires during the course of hearing at the outset that the Assessing Officer's corresponding penalty show cause notice dt.26-12-2018 nowhere specified as to whether the assessee had "concealed the particulars of income or furnished inaccurate particulars of income". We quote Hon'ble jurisdictional high court's decision Pr.CIT Vs. Baisetty Revathi [398 ITR 88] (Telangana & AP) and Mohd.Farhan A.Shaikh Vs. DCIT (2021) [125 taxmann.com 253] (Bom) (FB) that such a failure renders the entire penal mechanism as invalid. We therefore uphold the CIT(A)'s action deleting the impugned penalty on this precise legal issue alone.

4. This Revenue's appeal is dismissed in above terms.

Order pronounced in the open court on 16th November, 2021

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Hyderabad,
Dated: 16-11-2021

Copy to :

1.Asst.Commissioner of Income Tax, Central Circle-2(1), Hyderabad.

2.M/s.Divi's Laboratories Ltd. 1-72-23(P)/DIVIS/303, Cyber Hills, Gachibowli, Hyderabad.

3.CIT(Appeals)-12, Hyderabad.

4.Pr.CIT-Central, Hyderabad.

5.D.R. ITAT, Hyderabad.

6.Guard File.