

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES “SMC”, HYDERABAD**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER**

ITA No.64/Hyd/2022		
Assessment Year: 2014-15		
Smt. Sabitha Repalle, Vikarabad. PAN: APVPR6511H.	Vs.	The Income Tax Officer, Ward – 1, Vikarabad.
(Appellant)		(Respondent)
Assessee by:	Sri P. Vinod, Advocate.	
Revenue by:	B. Srinivas Rao, Sr. A.R.	
Date of hearing:	04/04/2022	
Date of pronouncement:	04/04/2022	

**ORDER**

**Per S. S. Godara, J.M.**

This assessee’s appeal arises from the Commissioner of Income Tax (Appeals) - 11, Hyderabad’s order dated 07.10.2021 in case No. 10005/2020-21 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 assessee’s sole substantive grievance that both the learned lower authorities have erred in law and on facts in imposing section 271(1)(c) penalty of Rs.1,70,120/- in issue pertaining to her additional income of Rs.6,00,000/- disclosing during the course of survey dt.27.09.2016, it transpires at the

outset that this tribunal's co-ordinate bench order dt.10.02.2022 has deleted identical penalty action in her own case in ITA Nos.534 to 536/Hyd/2021 as follows :

*“16. Heard the rival contentions, perused the orders of the authorities below and the case laws relied on before me. On perusal of the assessment order as well as the penalty order in all these cases, it is observed that the Assessing Officer has not pointed out any discrepancies found in the course of survey proceedings. There is no finding that some materials were impounded or seized suggesting that there is concealment of income unearthed in the course of survey proceedings. In fact, it is the finding of the Assessing Officer in the assessment order that the partners of Sabitha Anand Hospitals furnished affidavit during the course of survey proceedings offering additional income. Except this finding by the AO in the assessment and penalty order, nothing is recorded about the incriminating material found or any discrepancies found in the course of survey proceedings. There is no finding whatsoever to any incriminating materials based on which the assesseees were probably forced to admit additional income.*

*17. The learned CIT (A) while confirming the penalty in all these cases referred to the decision of the Hon'ble Supreme Court in the case of MAC Data Limited (supra) and the decision of Hon'ble Gujarat High Court in the case of M.P. Precision Engineering Ltd Vs. DCIT (supra) and also the decision of Rajkot Bench of the Tribunal in the case of Kashish Enterprises (supra). On perusal of these judgments, it is noticed that the facts in these cases were different than the facts in the case on hand. The judgments relied upon by the learned CIT (A) suggests that either there is survey or search proceedings and the Department detected/unearthed undisclosed income in all these cases by finding discrepancies as well as by impounding the documents. However, in the case on hand, there is nothing on record to suggest that the Assessing Officer or the survey team have detected any discrepancies or impounded any documents suggesting that there is any concealed income was unearthed. Mere voluntary disclosure by the assessee cannot lead to any concealment of income. There may be hundred and one reasons in disclosing additional income by the assessee, unless the Revenue authorities detects any incriminating materials/documents suggesting that there is undisclosed income by the assessee, the voluntary disclosure made by the assessee cannot be said to be concealed income. Mere voluntary disclosure by the assessee does not lead to any concealment of income. Therefore, the reliance placed by the ld. CIT (A) on the decisions referred to above appears to be misplaced as these decisions have no application to the facts of the assesseees cases and are distinguishable on facts.*

18. *In view of the above, I hold that as the Assessing Officer merely accepted income offered in the course of survey proceedings without there being any discrepancies found, undisclosed income unearthed in survey proceedings, there is no concealment of income by the assessee and the penalty levied u/s 271(1)(c) of the Act cannot be sustained. Accordingly, I direct the Assessing Officer to delete the penalty levied u/s 271(1)(c) of the Act in all these cases.”*

3. I adopt the foregoing discussion mutatis mutandis to delete the impugned penalty.

4. This assessee’s appeal is allowed in above terms.

Order pronounced in the Open Court on 04<sup>th</sup> April, 2022.

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

Hyderabad, dated 04<sup>th</sup> April, 2022.

***TYNM/sps***

Copy to:

S.No	Addresses
1	Smt. Sabitha Repalle, 4-2-879/6/1, Pratap Giri Bagh, Vikarabad – 501 101.
2	The Income Tax Officer, Ward – 1, Vikarabad.
3	The Commissioner of Income Tax (Appeals) – 11, Hyderabad.
4	The Pr. CIT (Central), Hyderabad.
5	DR, ITAT Hyderabad Benches
6	Guard File

*By Order*