

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में।
IN THE INCOME TAX APPELLATE TRIBUNAL "B"
BENCH, PUNE

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपीलसं. / ITA No.945/PUN/2019

निर्धारणवर्ष / Assessment Year : 2005-06

Radhesham Bherulal Bhandari, L/h of Late Bherulal L.Bhandari, A/p Market Yard, Satara, Maharashtra – 415001. PAN: ABHPB 7882 R	Vs .	The DCIT, Satara Circle, Satara.
Appellant/ Assessee		Respondent /Revenue

Assessee by	Shri M.K.Kulakarani – AR
Revenue by	Shri M.G.Jansnani - DR
Date of hearing	11/07/2022
Date of pronouncement	04/08/2022

आदेश/ ORDER

Per S.S.Godara, JM:

This assessee's appeal for Assessment Year 2005-06 is directed against the Commissioner of Income Tax(Appeals)-4, Pune's order dated 22.01.2019 passed in appeal no.PN/CIT(A)-4/Satara Circle/203/2013-14, in proceedings u/s.271(1)(c) of the Income Tax Act, 1961 [in short "the Act"].

Heard both the parties. Case files perused.

3. Coming to the assessee's sole substantive grievance that both the lower authorities have erred in law and on facts in imposing the section 271(1)(c) penalty of Rs.1,46,710/-, it emerges at the outset that the Assessing Officer's corresponding penalty show cause notice dated 12.09.20007 issued to the tax payer had nowhere specified or struck-off the relevant limb as to whether he had concealed

particulars of his income or furnished inaccurate particulars of such an income, as the case may be.

3. Faced with the situation and after having heard vehement rival contentions, we are of the opinion that there is hardly any need for us to delve deeper in the relevant factual matrix once hon'ble jurisdictional high court's recent landmark decision in Mohd. Farhan A.Shaikh Vs. ACIT 434 ITR 1 (Bom) has settled the law that the above stated failure on the Assessing Officer's part indeed vitiates the entire penal proceedings itself. We thus the impugned penalty for this precise reason alone. Ordered accordingly.

4. All other pleadings on merits are rendered academic.

5. This assessee's appeal is allowed.

Order pronounced in the open Court on 4th August, 2022.

Sd/-
(DR. DIPAK P. RIPOTE
ACCOUNTANT MEMBER

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

पुणे / Pune; दिनांक / Dated : 4th Aug, 2022/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.