

आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणे में ।  
**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, PUNE**

**BEFORE SHRI S.S.GODARA, JM  
AND SHRI DR. DIPAK P. RIPOTE, AM**

आयकर अपील सं. / **ITA No.628 to 631/PUN/2020**  
**निर्धारण वर्ष / Assessment Year : 2011-12 to 2013-14 & 2015-16**

Shri Mangesh Ramesh Annachhatre,  
1206/13/B,  
Sarswati Sadan,  
Municipal Colony,  
J.M. Road,  
Pune -411004

PAN : AAWPA8999E

.....अपीलार्थी / Appellant

बनाम / V/s.

DCIT, Cen.Cir.1(1), Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Sandeep Sathe  
Revenue by : Shri S.P.Walimbe

सुनवाई की तारीख / Date of Hearing : 23.06.2022  
घोषणा की तारीख / Date of Pronouncement : 29.08.2022

**आदेश / ORDER**

**PER S. S. GODARA, JM :**

1. These assessee's four appeals for A.Y. 2011-12 to 2013-14 and 2015-16 arises against the CIT(A) Pune's separate orders dated 28/10/2020 passed in ITBA/APL/S/250/2020-21/1028422203(1), 1028422267(1), 1028422316(1), 1028422515(1) respectively 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 ground that both the learned authorities have erred in law and on facts in imposing section 271(1)(c) penalties of Rs.1,12,795/-, Rs.3,03,736/- , Rs.1,55,471/-, and Rs.2,06,189/- assessment yearwise respectively, it emerges at the outset that the same pertain to the departmental search action dated 14.12.2016 during course of which the taxpayer had admitted and declared three heads of income i.e. bank interest, miscellaneous income and P.F. withdrawals in former 3 years, dividend in 4<sup>th</sup> and 5<sup>th</sup> and LIC pension in last assessment year involving varying sums, respectively. It is these heads of income which have been treated to be representing the assessee's concealed income as not declared in the original return(s) inviting section 271(1)(c) penalty that department has invoked the penal action in issue.

3. We have given our thoughtful consideration to vehement rival contentions against and in support of the impugned penalties. Mr. Walimbe strongly argued that once the assessee had not disclosed the impugned additional incomes under the forgoing four heads (supra); as the case may be, learned lower authorities have rightly invoked the impugned penalties.

4. We find no merit in the revenue's instant argument alleging the assessee who have concealed his taxable income by not declaring the same in the

original returns. It is made clear that 271(1)(c) explanation 5A applicable in case of a search initiated after 01.06.2007 stipulates deemed concealment in case of specific instances when the assessee concerned is found to be owner in of any money, bullion, jewelry or other valuable articles which is not the factual position before us. This is coupled with the fact that section 271AAB explanation C clauses (i) (A &B) as well as (ii) defines “undisclosed income” which admittedly has not been applied in the instant case as per CIT(A)’s detailed discussion. It therefore emerges that the assessee’s alleged additional income admitted and disclosed in the return is not covered under the specific instances of deemed concealment u/s. 271(1)(c) explanation 5A and therefore, we conclude that both the learned lower authorities had erred in law in levying impugned penalty(ies) in these assessment years. The same are directed to be deleted. Ordered accordingly.

5. These assessee’s four appeals are allowed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the Open Court on this 29<sup>th</sup> day of August, 2022.

**Sd/-**

**(DR.DIPAK P.RIPOTE)**

लेखा सदस्य/ **ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 29<sup>th</sup> August, 2022.

**Sd/-**

**(S.S. GODARA)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

Ashwini

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), Pune.
4. The Pr.CIT (Cen.), Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File. आदेशानुसार / BY ORDER,  
// True Copy //

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

ITA No.628 to 631/PUN/2020  
A. Y. : 2011-12 to 2013-14 & 2015-16

Shri Mangesh Ramesh Annachhatre,

S.No.	Details	Date	Initials
1	Draft dictated on	23.06.2022	
2	Draft placed before author	26.08.2022	
3	Draft proposed & placed before the Second Member		
4	Draft discussed/approved by Second Member		
5	Approved Draft comes to the Sr. PS/PS		
6	Kept for pronouncement on		
7	Date of uploading of Order		
8	File sent to Bench Clerk		
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R.		
11	Date of Dispatch of order		