

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

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

आयकर अपीलसं. / ITA No.1355/PUN/2018
निर्धारणवर्ष / Assessment Year : 2013-14

M/s.FPI Industries Pvt. Ltd., Gat No.147, Mahalungegaon, Chakan, Talegaon Road, Tal- Khed, Pune – 410501. PAN:AAGCP 3098 L	Vs .	The ACIT, Circle-9, Pune.
Appellant/ Assessee		Respondent /Revenue

Assessee by	None.
Revenue by	Shri Arvind Desai – DR
Date of hearing	12/08/2022
Date of pronouncement	29/08/2022

आदेश/ ORDER

Per S.S.Godara, JM:

This assessee's appeal for Assessment Year 2013-14 is directed against the Commissioner of Income Tax(Appeals)-8, Pune's order dated 16.05.2018 passed in appeal no.PN/CIT(A)-8/DCIT, cir-9/8/11/2017-18/71, in proceedings u/s.271(1)(c) of the Income Tax Act, 1961 [in short "the Act"].

Case called twice. None appears at the assessee's behest. It is accordingly proceeded ex-parte.

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.7,22,614/-, it emerges at the outset that the Assessing Officer's corresponding penalty show cause notice

dated 26.02.2016 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, we quote hon'ble jurisdictional high court's recent Full Bench decision in 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 delete the impugned penalty for this precise reason alone. Ordered accordingly.

4. This assessee's appeal is allowed.

Order pronounced in the open Court on 29th August, 2022.

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

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

पुणे / Pune; दिनांक / Dated : 29th 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, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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