

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "A" : PUNE

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

ITA No.25/PUN/2019
Assessment Year 2007-08

Omsairam Steel & Alloys Pvt. Ltd. Plot No.1,2,3,8 & 9 Addl MIDC Phase-II, JALNA - 431 203 PAN AAACO6232H State of Maharashtra.	vs	The DCIT, Central Circle- 2, Aayakar Bhavan, Chavani Aurangabad. State of Maharashtra PIN 431 002.
Appellant/ Assessee		Respondent /Revenue

Assessee by :	Shri Dayachand D Sawaji
Revenue by :	Shri Ramnath P Murkunde
Date of hearing :	06.12.2022
Date of pronouncement :	09.12.2022

ORDER

PER SATBEER SINGH GODARA, J.M. :

This assessee's appeal for Assessment Year 2007-08 is directed against the Commissioner of Income Tax (Appeals)-2, Aurangabad's order dated 01.11.2018 passed in appeal No. ABD/CIT(A)-2/205/2016-17, in proceedings u/s.271(1)(c) of the Income Tax Act, 1961 [in short "the Act"].

2. Heard both the parties. Case file 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.1,26,106/-, it emerges at the outset that the Assessing Officer's corresponding penalty show cause notice dated 01.02.2016 issued to the taxpayer 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.

4. Faced with the situation, we quote hon'ble jurisdictional high court's recent Full Bench 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.

5. This assessee's appeal is allowed.

Order pronounced in the open Court on 09th December, 2022.

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

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Pune, Dated 09th December, 2022

VBP/-

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. DR, ITAT, "A" Bench, Pune.
6. Guard File.

BY ORDER,

// TRUE COPY //

Senior Private Secretary
ITAT, Pune.