

**THE INCOME TAX APPELLATE TRIBUNAL  
DELHIBENCH 'E', NEW DELHI**

**Before Dr. B. R. R. Kumar, Accountant Member**

**Sh. Yogesh Kumar US, Judicial Member**

**ITA No. 6807/Del/2018 : Asstt. Year : 2009-10**

Mahashakti Engineering Company, C/o Akhilesh Kumar, Adv., Chamber No. 206-207, Ansal "Satyam", RDC Raj Nagar, Ghaziabad	Vs	ACIT, Circle-39(1), New Delhi
(APPELLANT)		(RESPONDENT)
<b>PAN No. AAOFM9129J</b>		

**Assessee by : None**

**Revenue by : Sh. Ajay Kumar, Sr. DR**

**Date of Hearing: 07.12.2022**

**Date of Pronouncement: 12.12.2022**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the assessee against the order of Id. CIT(A)-13, New Delhi dated 20.08.2018.

2. Following grounds have been raised by the assessee:

*"1. Because, the order of leaned Commissioner of Income Tax (A) is bad in law and against the facts and circumstances of the case.*

*2. Because, the Id. commissioner of income tax (appeals) grossly erred in not appreciating the substantial evidences /detailed explanation put forward before him in support of claim to demonstrate that neither assessee's particulars are inaccurate nor there is concealment is found and hence order is arbitrary.*

3. *Because, the Id. commissioner of income tax (appeals) erred in not appreciating the fact that claims is rejected merely as per the opinion of authorities and so is highly debatable in as much as none of evidences are rejected etc. and imposition of penalty on a bona fide claim is against the settled law.*

4. *Because, the Id. commissioner of income tax (appeals) erred in not appreciating the fact that addition itself is per assumptions/estimates though no specific amount is involved.*

5. *Because, the Id. commissioner of income tax (appeals) grossly erred in distinguishing the ratio of case of Manjunatha Cotton and Ginning Factory (2013) 359 ITR 565(Karnatka) approved by hon'ble Apex Court, that initiation of penalty by routine notice without specifying specific default/amount etc. is not valid, by wrongly relying on asstt. Order."*

3. The assessee filed return of income on 30.09.2009 declaring income of Rs.15,67,050/-. The assessee firm is engaged in the business of manufacturing of sugar mill machinery and its parts. The manufacturing process of these machinery items and parts involves cutting of MS Sheet, Angle, Channel etc. and welding/fabrication/assembling of various items as per specification and design of the customers.

4. We have perused the records.

5. Page No. 4 of the AO relevant to the violation of closing stock reads as under:

*"penalty proceedings u/s 271(1)(c) are also being initiated for concealment and filing of false particulars of income of Rs.74,90,738/-."*

6. At the end of the Assessment Order, the AO mentioned that,

*"Penalty proceedings u/s 271(1)(c) have been initiated separately".*

7. The para no. 8 of the order u/s 271(1)(c) dated 27.01.2016 reads as under:

*"Penalty proceedings under Section 271(1)(c) of the Income Tax Act, 1961 was initiated separately for concealment of income and furnishing of inaccurate particulars of income."*

8. The para no. 9 of the order u/s 271(1)(c) dated 27.01.2016 reads as under:

*"Keeping in view the above facts, I am satisfied that the assessee has committed a default and is liable for penalty u/s 271(1)(c) of the Income Tax Act, 1961, in this regard, I therefore impose a penalty of Rs....."*

9. On this issue, we are guided by the following judgments:

1) Karnataka High Court: CIT vs. Manjunatha Cotton and Ginning Factory: 359 ITR 565 held that notice under section 274 should specifically state the grounds mentioned in section 271(1)(c) of the Act, i.e., whether it is for concealment of income or for furnishing of incorrect particulars of income. Sending printed form where all the grounds mentioned in section 271 are mentioned would not satisfy requirement of law.

2) Bombay High Court: Mr. Mohd. Farhan A. Shaikh Vs ACIT Section 271(1)(c): Penalty-Concealment-Non-striking off of

the irrelevant part while issuing notice u/s 271(1)(c) of the Income Tax Act, order is bad in law. Assessee must be informed of the ground of the penalty proceedings only through statutory notice. An omnibus notice suffers from the vice of vagueness.

- 3) The Hon'ble jurisdictional Delhi High Court in the case of PCIT vs. Sahara India Life Insurance Co. Ltd. in ITA No. 475 of 2019, reiterated that notice under section 274 should specifically state the grounds on which penalty was sought to be imposed as the assessee should know the grounds which he has to meet specifically.
- 4) The aforesaid principle has been reiterated in the in the case of CIT vs. SSA'S Emerald Meadows: 73 taxmann.com 241 (Kar) [Revenue's SLP dismissed in 242 Taxman 180]

10. Hence, respectfully following the order of the Hon'ble Jurisdictional High Court, since the AO has not been specified u/s 274 as to whether penalty is proposed for alleged 'concealment of income' OR 'furnishing of inaccurate particulars of such income', the penalty levied is hereby obliterated.

11. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 12/12/2022.

Sd/-

**(Yogesh Kumar US)**  
**Judicial Member**

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**Dated: 12/12/2022**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR**