

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DEHRADUN BENCH 'DB', DEHRADUN**

**Before Sh. Saktijit Dey, Judicial Member**

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

**ITA No. 178/DDN/2019 : Asstt. Year : 2011-12**

**ITA No. 179/DDN/2019 : Asstt. Year : 2012-13**

Saraswati Dynamics Pvt. Ltd., C-7, Industrial Estate, Ram Nagar, Roorkee, Uttarakhand-247667	Vs	ACIT, Haridwar, Uttarakhand-247667
(APPELLANT)		(RESPONDENT)
<b>PAN No. AAEC6262M</b>		

**Assessee by : Sh. Hemant Arora, CA &**

**Sh. Pavitra H. Arora, CA**

**Revenue by : Sh. Mayank P. Tomar, Addl. CIT**

<b>Date of Hearing: 24.02.2023</b>
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<b>Date of Pronouncement: 23.05.2023</b>
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**ORDER**

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

The present appeals have been filed by the assessee against the order of Id. CIT(A), Dehradun dated 28.08.2019.

2. Since, the issue involved in both the appeals are similar, they were heard together and being adjudicated by a common order.

3. In ITA No. 178/DDN/2019, following grounds have been raised by the assessee:

*"1. On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in dismissing the appeal of the assessee.*

*2. On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in upholding the levy of penalty u/s*

*271(1)(c) even when the penalty notice itself was bad in law in as much as the penalty notice does not specify the specific default for which penalty notice has been issued.*

*3. On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in upholding the levy of penalty u/s 271(1)(c) on the basis of penalty notice where inappropriate words out of concealment of income or filing of inaccurate particulars of income has not been struck off.*

*4. On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in upholding the penalty ignoring the Hon'ble Supreme Court judgment in the case of SSA's Emerald and also the judgment of Hon'ble Karnataka High Court in the case of Manjunath.*

*5. On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in upholding the penalty only on the ground that the addition made by the AO in the assessment order has been confirmed by the CIT(A).*

*6. On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in upholding the levy of penalty u/s 271(1)(c) without proving either the concealment of income or filing of inaccurate particulars of income.*

*7. On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in upholding the penalty even when appeal to the ITAT against the order of the CIT(A) for the year under consideration was pending.*

*8. On the facts and in the circumstances of the case and in law the CIT(A) was incorrect and unjustified in upholding the penalty even when the penalty notice itself is illegal, invalid and bad in law."*

4. At the outset, it was brought to our notice by both the parties that the quantum addition stands deleted. And hence, the penalty proceedings do not survive. Further, we also find

that the cases of the assessee are also squarely covered 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]
5. 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.

6. In the result, both the appeals of the assessee are allowed.

Order Pronounced in the Open Court on 23/05/2023.

Sd/-

**(Saktijit Dey)**  
**Judicial Member**

Sd/-

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

**Dated: 23/05/2023**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**