

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos. 144, 146 & 148/RPR/2023
निर्धारण वर्ष / Assessment Years : 1993-94, 1994-95 & 1995-96

Santosh Jain
Opp. P.N Tiwari, Gandhi Chowk,
Durg (C.G.)-491 001
PAN: AFYPJ6194D

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer-1(1),
Bhilai (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri R.B Doshi, CA
Revenue by : Shri Satya Prakash Sharma, Sr. DR

सुनवाई की तारीख / Date of Hearing : 21.08.2023
घोषणा की तारीख / Date of Pronouncement : 12.09.2023

आदेश / ORDER**PER BENCH :**

The captioned appeals filed by the assessee are directed against the order passed by the CIT(Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 08.03.2023, which arises from the order passed by the A.O. u/s. 271(1)(b) of the Income-tax Act, 1961 (for short 'Act'), dated 27.07.2015 for A.Ys.1993-94, 1994-95 & 1995-96. As a common issue is involved in the captioned appeals, the same are being taken up and disposed off through a consolidated order.

2. We shall first take up the appeal filed by the assessee in ITA No.144/RPR/2023 for the assessment year 1993-94 as the lead matter, and the order therein passed shall *mutatis-mutandis* apply to the remaining appeals. The assessee has assailed the impugned order on the following grounds of appeal before us:

“1. Ld. CIT(A) erred in confirming penalty of Rs.60,000/- imposed by the A.O u/s.271(1)(b). The penalty imposed by the A.O and confirmed by CIT(A) is illegal and not justified.

2. Without prejudice to ground no.1 Ld. CIT(A) erred in confirming penalty without appreciating the fact that the A.O has levied penalty without providing any opportunity of being heard to the appellant.

3. Without prejudice to ground no.1 and 2, the Ld. CIT(A) erred in confirming penalty without appreciating the fact the penalty order passed by the A.O is illegal and ab initio void inasmuch as same is barred by limitation. The penalty order passed by the A.O and affirmed by the Ld. CIT(A) is liable to be quashed.

4. The appellant reserves the right to add, amend or alter any ground/s of appeal.”

3. Succinctly stated, as the assessee who was engaged in manufacturing and trading of iron and steel items had carried out substantial business transactions during the year but had failed to file his income return; therefore, the A.O. initiated proceedings u/s.147 of the Act. Notice u/s.148 dated 30.03.2000 was issued to the assessee.

4. As the assessee failed to comply with the notices issued to him, therefore, the A.O. was constrained to frame assessment vide order passed u/s.144 r.w.s. 147 of the Act dated 15.03.2002, wherein his income was assessed at Rs.5,62,910/-. The A.O., while culminating the assessment, inter alia, initiated penalty proceedings u/s.271(1)(b) of the Act.

5. As is discernible from the records, the assessee, in the course of the assessment proceedings, had failed to comply with the notices which were issued by the A.O, as under:

Sl. No.	Description of Notice	Date of issue	Date of service	Date of hearing	Remark
1.	143(2)	28-08-2000	02.09.2000	04.09.2000	No compliance was made.
2.	Letter/142(1)	29-11-2000	-	01-12-2000	Returned unserved with the remarks that the assessee was out of station and there were no responsible

					persons in his family to receive the notice
3.	Letter/142(1)	11-01-2001	19-01-2001	22-01-2001	Remain uncompiled with
4.	Application for adjournment of the case received from the assessee on 25-01-2001	25-01-2001 (Date of receipt of assessee's application for adjournment of the case)	-	01-02-2001	No compliance was made.
5.	142(1)(ii)	07-12-2001	03-01-2002	17-01-2002	Non compliance
6.	Letter & 142(1)(ii)	12-02-2002	20-02-2002	25-02-2002	Non compliance

Also, notice u/s. 148 of the Act dated 30.03.2000 was not complied with by the assessee.

6. Considering the non-compliance of the assessee to the notices issued during assessment proceedings, the A.O. called upon him to explain why the penalty u/s. 271(1)(b) of the Act may not be imposed. As the explanation filed by the assessee did not find favor with the A.O., he vide order passed u/s. 271(1)(b) of the Act dated 27.07.2015 imposed a penalty aggregating to Rs. 70,000/- i.e @ Rs.10,000/- for each of the seven defaults.

7. Aggrieved the assessee carried the matter in appeal before the CIT(Appeals). Although the CIT(Appeals) found favor with the claim of the assessee that penalty u/s.271(1)(b) of the Act could not have been levied qua the failure on his part to comply with the notice issued u/s.148 of the Act, but

principally upheld the penalty that was imposed the assessee for his failure to comply with the notices that were issued on six occasions in the course of the assessment proceedings by the A.O. Accordingly, the CIT(Appeals), based on his observations above, scaled down the penalty u/s. 271(1)(b) of the Act to Rs.60,000/-. The CIT(Appeals), while upholding the penalty imposed by the A.O u/s. 271(1)(b) of the Act had observed as under:

"8.1 During the appellate proceeding, the appellant has made written submission in respect of this ground of appeal which is produced as under:

2.1. The appellant was not served with any show cause notice before levying penalty as in the Income Tax records of appellant, address mentioned was of Vaishali Nagar, Bhilai wherein the office premises of Rolling Mill business was situated and due to continued losses in the business, the Rolling Mill was sold off in FY 1995/96 and subsequently the office of appellant shifted to the other address C/o Shri Rajkumar Jain, Opp. of Dr. P. N. Jain Mandir Road, Durg (C.G.).

2.2. The address at which notice etc. is to be served, is prescribed in Rule 127(2) I. T. Rules, 1962, which provides that the address would be the address available in PAN database or the income tax return or in the last income tax return or in the case of a company, address of the registered office as available in the website MCA

The second proviso to Rule 127(2) provides that where the communication cannot be delivered at any of the above address, the communication shall be delivered at the address of assessee as available with a banking company or post master general or any insurer etc. Therefore, if the notice could not be served on the address available in the return of appellant, the AO was required to make efforts to find out address as per the record of the bank in which account of appellant was maintained and serve the notice at such address. However, the AO preferred to proceed with passing of the penalty order instead of following the procedure prescribed under the law.

2.4 Above discussion shows that the AO did not exhaust the remedy available under the law for service of show cause notice and therefore, in this sense of the matter, there was no proper opportunity to the appellant."

8.2 I do not find any force in this contention of the appellant. The show-cause notices for imposition of penalty were issued as per the last known address

available in records. This is an admitted position that the appellant had failed to intimate the change of address to the AO.' The appellant has not made a single compliance during the entire assessment proceedings-as also in.-the penalty proceedings. On these facts, I find that the appellant cannot take advantage of his own failure, namely, to intimate his new address to the AO; and take recourse to the argument that penalty was imposed without providing any opportunity of being heard, thereby violating the principles of natural justice. It is a trite law that any legal right, including the right to be heard, can only be availed by those who are vigilante for their rights, and not by those who sleep over them. In the case at hand, it is the appellant who has not taken the due care to intimate the Department about his new address. Therefore, it is not open to the appellant to now raise an objection as to violation of procedure by the AO in imposing penalty. This ground of appeal is dismissed.

9. In Ground No.(3), the appellant has contended that the penalty order passed by the AO is barred by limitation.

9.1 During the appellate proceeding the appellant has made written submission in respect of this ground of appeal which is produced as under:

This ground of appeal is without prejudice to ground no. 1 & 2 and the penalty order is sought to be assailed being illegal ab initio void inasmuch as it is time barred. Following submission may kindly be considered: -

3.1 The assessment order was passed on 15.03.2002 u/s 144/147, as is mentioned in the first part of the penalty order.

3.2 As per the sec. 275(1)(c), no order imposing penalty could be passed after the expiry of financial year in which the proceedings, in the course of which action for imposition of penalty was initiated, are completed, or six months from the end of the month in which action for imposition on penalty is initiated, whichever is later.

3.3 We are enclosing herewith a copy of the assessment order dated 15.03.2002 (page no. 01 to 03). A perusal of such assessment order shows that the penalty proceeding u/s 271(1)(b) was initiated by AO along with passing of the assessment order and therefore, as per sec. 275(1)(c), the penalty order could be passed either by 31.03.2002 or 30.09.2002, whichever is later. Therefore, the penalty could have been imposed only by 31.09.2002 whereas it has been imposed on 27.07.2015. Therefore, the penalty order is barred by limitation.

3.4 The language of sec. 275(1)(c) is noteworthy. It says "no order imposing a penalty under this Chapter shall be passed". Having regard to the language used, it is evident that beyond the limitation period prescribed u/s 275(1), no penalty order can be passed.

3.5 It appears that since the ITAT decided the case of appellant on 17.12.2014, the AO, has counted the limitation period from that date. It is

submitted that this stand of AO is contrary to law and is not justified. The limitation period is extended drily in the cases which are covered by sub-clause (a) of section 275(1), which covers cases where the relevant assessment order or Other, order subject matter of appeal to the CIT (A) or ITAT. The shelter of sub-clause (a) is available only in the cases where the quantum of additions/disallowance is being contested and appeal against such addition/disallowance was filed and penalty was initiated by AO in respect of such disputed additions.

It is further submitted that the matter carried before the ITAT was appeal against the assessment order, which had nothing to do with the penalty proceedings. Penalty proceeding u/s 271(1)(b) were initiated for non compliance during the assessment proceeding and therefore, what was required to be seen while levying penalty under the above section is, whether there was any reasonable cause for the alleged non-compliance. The appeal against assessment order had no bearing upon the penalty proceedings for non-compliance of various notices and therefore, if there was appeal against the assessment order, there was no valid reason to keep the penalty proceedings pending till disposal of quantum appeal. The limitation period for imposition of penalty was extended only with reference to the penalty which was linked with the addition made, which was subject matter of appeal and since the penalty under consideration is not linked with the addition made, the limitation did not get extended.

3.6 Penalty u/s 271(1)(b) has nothing to do with the amount of addition/disallowance made in assessment and the outcome in quantum appeal did not have any bearing upon penalty u/s 277(1)(b). Therefore, sub-clause (a) of section 275(1) is not applicable. Consequently, the penalty order dated 27.07.2015 passed by AO is time barred.

3.7 in view of above explanation, it is requested that the penalty order may kindly be quashed being time barred,"

9.2 In the instant case, the penalty has been imposed for non-compliance of statutory notices issued in the course of assessment proceedings. Further, the action for imposition of penalty for non-compliance has been initiated in the course of assessment proceedings itself, by way of issue of notice under section 274 read with section 271(1)(b) of the Act. The relevant assessment order was admittedly a subject matter of appeal before the Appellate Tribunal. The appeal was dismissed by the ITAT, Raipur vide order dated 17.12.2014, which was received in the office of CIT-1, Raipur on 20.01.2015. These facts are clearly mentioned at Para 6 of the penalty order itself, -

"6. The. Hon'ble CIT(A), Raipur dismissed the appeals of the assessee on 10.07.2003. The Hon'ble ITAT, Bilaspur Bench, Bilaspur vide order date 4.1 5:02:2008 set-aside the order of the Ld. Raipur. The Department had challenged the above order before the Hon'ble High Court of Chhattisgarh, Bilaspur. The Hon'ble High Court vide its order dated 17.01.2012 had restored it back to the Hon'ble ITAT.

Subsequently, the Hon'ble ITAT, Raipur Bench, Raipur has dismissed all the appeals of the assessee vide order dated 17.12.2014 (received in the O/o the CIT-1, Raipur on 20.10.2015) and upheld the AO's order."

9.2.1 On these facts, it is evident that the period of limitation for imposing penalty has to be construed in accordance with the provisions of clause (a) of sub-section (1) of section 275. The period of six months, from the end of the months in which appellate order was received, expired on 31st July 2015. The order imposing penalty has been made on 27th July 2015, hence within the limitation provided under section 275(1)(a). Therefore, I do not find any force in the contention of the appellant that the penalty was barred by limitation. This ground of appeals dismissed.

10. in Ground No. (4), the appellant prays to reserve the right to add, amend or alter any ground/s of appeal. No such option has been exercised by the appellant during the appeal proceedings and hence, does not require any adjudication.

11. in the result, the appeal is partly allowed."

8. The assessee, being aggrieved with the order of the CIT(Appeals), has carried the matter in appeal before us.

9. We have heard the Ld. Authorized Representatives of both the parties, perused the orders of the lower authorities and the material available on record and considered the judicial pronouncement pressed into service by the Ld. AR to drive home his contentions.

10. At the outset, it was submitted by Shri R.B Doshi, Ld. Authorized Representative (for short 'AR') for the assessee that the penalty imposed by the A.O u/s. 271(1)(b) of the Act was barred by limitation. Elaborating on his contention above, it was averred by the Ld. AR that as the time limit for imposing penalty u/s. 271(1)(b) of the Act was provided in Section 275(1)(c)

of the Act; therefore, the penalty imposed by the A.O. vide his order dated 27.07.2015 was beyond the stipulated period and barred by limitation. On a specific query by the Bench that now when the penalty proceedings had been initiated by the A.O. while framing the assessment vide his order passed u/ss. 144/147 of the Act dated 15.03.2002, then how the same would not be governed by the time limit provided in clause (a) to sub-section (1) of Section 275 of the Act, it was submitted by the Ld. AR that as the imposition of impugned penalty u/s.271(1)(b) was in no way dependent on the quantification of the assessed income of the assessee, therefore, it fell within the realm of the time limit prescribed in clause (c) of sub-section (1) to Section 275 of the Act. In support of his contention above, the Ld. AR had pressed into service the order of the ITAT, Lucknow Bench in the case of ACIT Vs. Vaish Bros. & Co. (2005) 93 TTJ 476 (Luck.). Referring to the order of the Tribunal, it was submitted by the Ld. AR that the Tribunal had, in the context of penalty u/s. 271B of the Act, observed that as the same was not related to the computation of income, therefore, the time limitation within which the same could be imposed was regulated by the provisions of Section 275(1)(c) of the Act. The Ld. AR, drawing an analogy from the aforesaid judicial pronouncement, submitted that as penalty u/s.271(1)(b) of the Act was similar to Section 271B of the Act, i.e., neither of those were dependent on the income assessed;

therefore, on an equal footing, the same too was regulated by the time limit provided in clause (c) of sub-section (1) to Section 275 of the Act.

11. Per contra, the Ld. Departmental Representative (for short, 'DR') relied on the orders of the lower authorities.

12. Before proceeding any further, it would be relevant to cull out Section 275 of the Act, which lays down the time limits for imposition of penalties under Chapter XXI of the Act, as under:

“275. (1) No order imposing a penalty under this Chapter shall be passed—

(a) in a case where the relevant assessment or other order is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or section 246A or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, whichever period expires later :

Provided that in a case where the relevant assessment or other order is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or section 246A, and the Commissioner (Appeals) passes the order on or after the 1st day of June, 2003 disposing of such appeal, an order imposing penalty shall be passed before the expiry of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or within one year from the end of the financial year in which the order of the Commissioner (Appeals) is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, whichever is later;

(b) in a case where the relevant assessment or other order is the subject-matter of revision under section 263 or section 264, after the expiry of six months from the end of the month in which such order of revision is passed;

(c) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

(1A) In a case where the relevant assessment or other order is the subject matter of an appeal to the Commissioner (Appeals) under section 246 or section 246A or an

appeal to the Appellate Tribunal under section 253 or an appeal to the High Court under section 260A or an appeal to the Supreme Court under section 261 or revision under section 263 or section 264 and an order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty is passed before the order of the Commissioner (Appeals) or the Appellate Tribunal or the High Court or the Supreme Court is received by the Principal Chief Commissioner or Chief Commissioner or the Principal Commissioner or Commissioner or the order of revision under section 263 or section 264 is passed, an order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty may be passed on the basis of assessment as revised by giving effect to such order of the Commissioner (Appeals) or, the Appellate Tribunal or the High Court, or the Supreme Court or order of revision under section 263 or section 264:

Provided that no order of imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty shall be passed—

(a) unless the assessee has been heard, or has been given a reasonable opportunity of being heard;

(b) after the expiry of six months from the end of the month in which the order of the Commissioner (Appeals) or the Appellate Tribunal or the High Court or the Supreme Court is received by the Principal Chief Commissioner or Chief Commissioner or the Principal Commissioner or Commissioner or the order of revision under section 263 or section 264 is passed:

Provided further that the provisions of sub-section (2) of section 274 shall apply in respect of the order imposing or enhancing or reducing penalty under this sub-section.

(2) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), shall apply to and in relation to any action initiated for the imposition of penalty on or before the 31st day of March, 1989.

Explanation.—In computing the period of limitation for the purposes of this section,—

(i) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129;

(ii) any period during which the immunity granted under section 245H remained in force; and

(iii) any period during which a proceeding under this Chapter for the levy of penalty is stayed by an order or injunction of any court, shall be excluded.”

13. Ostensibly, a perusal of the aforesaid statutory provision reveals that as per clause (a) of sub-section (1) to Section 275 of the Act, where the action for imposition of penalty is, inter alia, initiated in the assessment order, the

time limit for imposing such penalty would be regulated by the mandate of the said clause, i.e. before expiry of the financial year in which the proceedings in the course of which action for the imposition of penalty had been initiated are completed; or six months from the end of the month in which the order of the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, whichever period expires later. Further, vide the "1st proviso" to Section 275(1)(a) of the Act, as had been made available on the statute vide the Finance Act, 2002 w.e.f. 01.06.2003, in a case where the relevant assessment order is, inter alia, subject matter of an appeal to the Commissioner(Appeals) u/s. 246A of the Act, and the Commissioner (Appeals) passes the order on or after 1st day of June, 2003 disposing of such appeal, then, an order imposing penalty shall be passed before expiry of the financial year in which the proceedings, in the course of which, action for imposition of penalty has been initiated, are completed or within one year from the end of the financial year in which the order of the Commissioner (Appeals) is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, whichever is later.

14. Be that as it may, as the penalty proceedings u/s. 271(1)(b) of the Act in the present case, had been initiated by the A.O in the body of the assessment order, therefore, we find no justification as to why time period for imposing the said penalty would not be regulated by clause (a) of sub-section (1) to Section 275 of the Act. Although the claim of the Ld. AR that as penalty u/s.271(1)(b) of the Act is not dependent on the framing of the assessment, thus, the time period for imposing the same would not be regulated by clause (a) of sub-section (1) to Section 275; and would fall within the realm of the time period provided in the residuary provision contemplated in clause (c) of sub-section (1) to Section 275 of the Act, at the first blush appeared to be very convincing, but we are afraid that the same does not merit acceptance. We, say so, for the reason, that as the penalty proceedings u/s. 271(1)(b) had been initiated by the A.O in the body of the assessment order, therefore, there is no reason to read a time limit different than that provided in clause (a) of sub-section (1) to Section 275 of the Act, which, inter alia, specifically provides for the time limitation for imposing penalties where the same had been initiated in the course of proceedings, i.e assessment or other order. In so far clause (c) of sub-section (1) to Section 275 is concerned, the same regulates the time limit for imposing penalties in cases other than those which fall within the sweep of clause (a) and clause (b) to sub-section (1) of Section 275 of the Act. To sum up, clause (c) of sub-section (1) to Section 275 provides for the

time limit for imposing penalties in residuary cases, i.e those which are not specifically covered by clause (a) and clause (b) to sub-section (1) of Section 275 of the Act. We, thus, are of a firm conviction, that now when the penalty u/s 271(1)(b) had been initiated by the A.O in the course of the assessment proceedings, therefore, the same could validly be imposed as per the time limit provided in clause (a) of sub-section (1) of Section 275.

15. In so far the reliance placed by the Ld. AR on the order of ITAT, Lucknow in the case of ACIT Vs. Vaish Bros. & Co. Ltd. (2005) 93 TTJ 476 (Luck), the being distinguishable on facts would not assist the case of the assessee before us. In the aforesaid case, the issue before the Tribunal was the time limit for imposing penalty u/s.271B of the Act. As the penalty in the case referred above, i.e. u/s. 271B of the Act can be independently initiated, therefore, for the said reason, the time limit for imposing the same can safely be related to clause (c) of sub-section (1) to Section 275 of the Act. However, as in the present case before us, the penalty in question, i.e. u/s. 271(1)(b) of the Act is inextricably interwoven with the framing of assessment, therefore, there can be no justification for reading a time limit for imposing the same other than that specifically provided in clause (a) of sub-section (1) to Section 275 of the Act. We may demonstrate the aforesaid aspect by drawing support from an exemplary situation. Say, if the assessment order passed by the A.O

u/s.143(3) of the Act is on appeal quashed by the appellate authority, then, the penalty proceedings initiated u/s. 271(1)(b) of the Act cannot independently survive and has to meet the same fate. On the other hand, penalty u/s.271B can be independently initiated for a default of the assessee to comply with the statutory obligation of getting his accounts audited as per the mandate of Section 44AB of the Act. Based on our aforesaid observations, we are of the considered view that as clause (a) of sub-section (1) to Section 275 of the Act specifically provides that where the penalty has, inter alia, been initiated in the assessment order, then the same is required to be imposed within the time span therein contemplated, therefore, there can be no justification in concluding that the penalty u/s. 271(1)(b) of the Act that was initiated by the A.O in the body of the assessment order would not be regulated by the time limit provided in clause (a) of sub-section (1) to Section 275 of the Act .

16. Apropos the chronology of the proceedings in the case of the assessee, for determining as to whether the penalty imposed by the A.O u/s 271(1)(b) of the Act, vide his order dated 27th July, 2015, is within limitation as provided in clause (a) of sub-section (1) to Section 275 of the Act, we shall cull out the observations recorded by the CIT(Appeals) in his order, as under:

“The Hon’ble CIT(A), Raipur dismissed the appeals of the assessee on 10.07.2003. The Hon’ble ITAT, Bilaspur Bench, Bilaspur vide order dated 15.02.2008 set-aside the order of the Ld. CIT(A), Raipur. The Department had challenged the above order before the Hon’ble High Court of Chattisgarh, Bilaspur. The Hon’ble High Court vide its order dated 17.01.2012 had restored it back to the ITAT. Subsequently, the Hon’ble ITAT, Raipur Bench, Raipur has dismissed all the appeals of the assessee vide order dated 17.12.2014 (received in the O/O the CIT-1, Raipur on 20.10.2015) and upheld the AO’s order.”

As observed by the CIT(Appeals) and, rightly so, the limitation for imposing penalty u/s 271(1)(b) as per the time period contemplated in clause (a) of subsection (1) to Section 275, i.e six months from the end of the month in which appellate order was received – ITAT order dated 17,12,2014, expired on 31.07.2015, therefore, the order dated 27.07.2015 imposing the aforesaid penalty was well within the limitation period.

17. We, thus, in terms of our aforesaid observations are unable to concur with the solitary contention advanced by the Ld. AR, i.e the penalty imposed by the A.O under Section 271(1)(b) was barred by limitation, and uphold the view taken by the lower authorities. Thus, the grounds of appeal raised by the assessee are dismissed in terms of our aforesaid observations.

18. In the result, the appeal of the assessee in ITA No.144/RPR/2023 for the assessment year 1993-94 is dismissed in terms of our aforesaid observations.

ITA Nos. 146 & 148/RPR/2023
A.Ys.1994-95 & 1995-96

19. As the facts and issues involved in the captioned appeals remain the same as those before us in the case of the assessee in ITA No.144/RPR/2023 for the assessment year 1993-94; therefore, our order therein passed while disposing off the said appeal shall apply *mutatis-mutandis* for disposing the captioned appeals, i.e., ITA No. (s) 146 & 148/RPR/2023 for the assessment years 1994-95 & 1995-96. In these cases also, we are unable to concur with the contentions of the Ld. AR and uphold the view taken by the lower authorities based on the observations which we have recorded while disposing the appeal in ITA No. 144/RPR/2023 for A.Y.1993-94.

20. In the result, both the appeal(s) of the captioned assesseees in ITA Nos. 146 & 148/RPR/2023 for A.Ys.1994-95 & 1995-96 are dismissed in terms of our observations above.

21. In the combined result, all the captioned appeals are dismissed in terms of our aforesaid observations.

Order pronounced in open court on 12th day of September, 2023.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
RAVISH SOOD
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 12th September, 2023

***SB

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. The Pr. CIT, Raipur-1 (C.G)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.