

THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCHES : NAGPUR

(THROUGH VIRTUAL HEARING)

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

AND

SHRI GD PADMAHSHALI, ACCOUNTANT MEMBER

ITA.Nos.112/Nag./2018
Assessment Years 2007-2008

Shri Mitesh G. Bhangdiya 905, B-Wing, Lokmat Building, Nagpur-440010	vs.	Assistant Commissioner Of Income Tax Central Circle-2(1), Nagpur
PAN: AERP5203E		
(Appellant)		(Respondent)

&

ITA.Nos.113/Nag./2018
Assessment Years 2007-2008

Shri Sanjay Rameshchandraji Heda 905, B-Wing, Lokmat Building, Nagpur-440010	vs.	Assistant Commissioner Of Income Tax Central Circle-2(1), Nagpur
PAN: AADPH7109J		
(Appellant)		(Respondent)

&

ITA.Nos.114 & 115/Nag./2018
Assessment Years: 2011-2012, 2007-08 & 2008-09

Shri Kirtikumar Mitesh Bhangdiya 905, B-Wing, Lokmat Building, Nagpur-440012	vs.	Assistant Commissioner Of Income Tax Central Circle-2(1), Nagpur
PAN: AGYPB1659G		
(Appellant)		(Respondent)

For Assessee :	Shri Ashok Bansal, CA
For Revenue :	Shri Sanjay Agrawal, DR

Date of Hearing :	29.08.2023
Date of Pronouncement :	22.09.2023

ORDER**PER BENCH:**

The instant batch of four cases pertains to three assessees S/sh. Mitesh G. Bhangdiya, Sanjay Heda & Kirtikumar M. Bhangdiya. All these four cases arise against the CIT(A)-3, Nagpur's separate orders. Relevant details thereof read as under:

Sl./ITA No.	A.Y.	Assessee's name	Order appealed against	Relevant Proceedings	Penalty amount confirmed in the CIT(A)'S order
ITA No. 112/ Nag./2018	2007-08	Shri Mitesh G.Bhangdiya	CIT(A)-3/69 /2017-18	u/s. 271(1)(c)	Rs.1,69,783/-
ITA No. 113/ Nag./2018	2007-08	Shri Sanjay Heda	CIT(A)-3/32 /2017-18	u/s. 271(1)(c)	Rs.12,56,366/-
ITA No. 114/ Nag./2018	2007-08	Shri Kirtikumar Mitesh Bhangdiya	CIT(A)-3/24 /2017-18	u/s. 271(1)(c)	Rs.2,96,653/-
ITA No. 115/ Nag./2018	2008-09	Shri Kirtikumar Mitesh Bhangdiya	CIT(A)-3/25 /2017-18	u/s. 271(1)(c)	Rs.3,56,390/-

2. Heard the assessee's as well as the department at length. Case files perused.

3. Coming to the identical substantive issue amongst the parties herein regarding correctness of both the learned lower authorities imposing Section 271(1)(c) penalties hereinabove, it emerges at the outset that there is hardly any need for us to delve with the relevant factual matrix at length. This is for the precise reason that the concerned assessing authority (ies)' identical corresponding show cause notices, all four dated 31.03.2014, had nowhere specified as to whether these three assessees had concealed or furnished inaccurate particulars of their taxable income. The Revenue could

hardly dispute that case law Mohd. Farhan A. Shaikh vs. ACIT (2021) 434 ITR 1 (Bom.) (FB) holds that an assessing officer's failure to this effect vitiates the relevant proceedings itself.

4. Faced with this situation, we are of the opinion that all these four penalties in question deserve to be deleted as non est in the eyes of law. Ordered accordingly.

5. These three assessee's four appeals i.e. ITA No. 112/Nag./2018 (Shri Mitesh G. Bhangdiya), ITA No.113/Nag/2018 (Shri Sanjay Heda) & ITA Nos. 114 & 115/Nag./2018 (Shri Kirtikumar M. Bhangdiya); respectively are allowed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 22.09.2023

Sd/-

[GD PADMAHSHALI]
ACCOUNTANT MEMBER
Pune, Dated 22.09.2023
S.K.SINHA

Sd/-

[SATBEER SINGH GODARA]
JUDICIAL MEMBER

True Copy

Copy to

1.	The appellant
2.	The respondent
3.	The Ld. CIT(A) concerned.
4.	The CIT concerned
5.	D.R. ITAT, Nagpur Bench, Nagpur
6.	Guard File.

//By Order//

Assistant Registrar,
ITAT, Pune Benches, Pune.

1.	Date of dictation of order	20.09.2023 (Direct on Computer)
2.	Date of draft order placed before Member	20.09.2023
3.	Date of draft order signed by other Member	22.09.2023
4.	Date of receipt of order	22.09.2023
5.	Kept for pronouncement	22.09.2023
6.	Date of uploading of the order	22.09.2023
7.	File sent to Bench Clerk	22.09.2023
8.	Date on which placed before Head Clerk	
9.	Date on which signed by Asst. Registrar	
10.	Date of Dispatch of order	