

THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCHES : NAGPUR

(THROUGH VIRTUAL HEARING)

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

AND

DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA.No.40/Nag./2020
Assessment Year 2009-2010

Shriprakash Pralhadrai Agrawal Resham Oli, Jagnath Budhwari, Nagpur-440002	vs.	Income Tax Officer Ward-3(2), Nagpur
PAN: ABDPA5823B		
(Appellant)		(Respondent)

For Assessee :	Shri Abhay Agrawal, Adv.
For Revenue :	Shri Sanjay Agrawal, DR

Date of Hearing :	01.09.2023
Date of Pronouncement :	22.09.2023

ORDER

PER SATBEER SINGH GODARA, J.M.

This assessee's appeal for A.Y. 2009-10, arises against the CIT(A)-2, Nagpur's order dated 18.11.2019, passed in Case No.CIT(A)-2/163/2016-17, in proceedings under section 271(1)(c) of the Income Tax Act, 1961 ["In short Act"].

2. Heard both the parties. Case file perused.

3. Coming to the assessee's sole substantive grievance challenging correctness of both the lower authorities' action imposing Section 271(1)(c) penalty of Rs.4,25,010/- in the Assessing Officer's corresponding order dated 31.03.2009 as upheld in the CIT(A)'s lower appellate discussion, we note at the outset that the former's show cause notice issued under Section 274 of the Act

dated 02.02.2016 had nowhere specified as to whether this is an instance of concealment or furnishing of inaccurate particulars of income. That being the case, we quote Mohd. Farhan A. Shaikh vs. ACIT [2021] 434 ITR 1 (Bom.) (FB) that such a failure at the Assessing Officer's behest vitiates the entire proceedings.

4. We accordingly reject the Revenue's vehement arguments supporting the impugned penalty in very terms. The assessee succeeds in its sole substantive grievance therefore. Ordered accordingly.

5. This assessee's appeal is allowed in above terms.

Order pronounced in the open court on 22.09.2023

Sd/-

[DR. DIPAK P. RIPOTE]
ACCOUNTANT MEMBER
Pune, Dated 22.09.2023
S.K.SINHA

Sd/-

[SATBEER SINGH GODARA]
JUDICIAL MEMBER

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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.