

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B" : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI GD PADMAHSHALI, ACCOUNTANT MEMBER

ITA No.721/PUN/2023
Assessment Year 1998-1999

Shri Ramchandra Ram Reddy, Flat No.16, Gurukrupa Heights, Vadjai Mata Nagar, Makhmalabad Road, Panchvati, Nashik-422003 State of Maharashtra. PAN ABCPR6636E	vs	The DCIT, Central Circle-2(1), Aayakar Bhavan, Room No.630, 6 th Floor, Bodhi Tower, 548/2B, Salisbury Park, Gultekdi, Pune. State of Maharashtra PIN 411 037.
Appellant		Respondent

For Assessee :	Shri V.L. Jain
For Revenue :	Shri M.G. Jasnani

Date of Hearing :	26.10.2023
Date of Pronouncement :	01.11.2023

ORDER

PER SATBEER SINGH GODARA, J.M. :

This assessee's appeal for Assessment Year 1998-1999 is directed against the Commissioner of Income Tax (Appeals), Pune-11, Pune's Din & Order No.ITBA/APL/S/250/2022-23/1049151119(1), dated 27.01.2023, involving proceedings u/s.271(1)(c) of the Income Tax Act, 1961 [in short "the Act"].

2. Heard both the parties. Case file perused.
3. Coming to the assessee's sole substantive grievance that both the lower authorities have erred in law

and on facts in imposing the section 271(1)(c) penalty of Rs.1,24,557/-, it emerges at the outset that the Assessing Officer's corresponding penalty show cause notice dated 30.03.2005 issued to the taxpayer had nowhere specified or struck-off the relevant limb as to whether he had concealed particulars of his income or furnished inaccurate particulars of such an income, as the case may be.

4. Faced with the situation, we quote hon'ble jurisdictional high court's recent Full Bench landmark decision in Mohd. Farhan A.Shaikh Vs. ACIT 434 ITR 1 (Bom) has settled the law that the above stated failure on the Assessing Officer's part indeed vitiates the entire penal proceedings itself. We thus delete the impugned penalty for this precise reason alone. Ordered accordingly.

5. This assessee's appeal is allowed.

Order pronounced in the open Court on 01.11.2023.

Sd/-
(GD PADMAHSHALI)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Pune, Dated 01st November, 2023

VBP/-

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Pune-11, Pune.
4. The Pr. CIT (Central), Pune.
5. DR, ITAT, "B" Bench, Pune.
6. Guard File.

BY ORDER,

// TRUE COPY //

Senior Private Secretary
ITAT, Pune.