

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

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

Sh. Yogesh Kumar US, Judicial Member

ITA No. 23/JAB/2021 : Asstt. Year: 2014-15

Tarun Devcon P. Ltd., D-24, Dixit Enclave, Bandariya Triraha, Jabalpur 482001 (MP)	Vs	The DCIT, Central Circle, Jabalpur 482001 (MP)
(APPELLANT)		(RESPONDENT)
PAN No. AAECT 5367 N		

Assessee by : Pavan Ved, Adv.

Revenue by : Sh. Shraavan Kumar Gotru, CIT- DR

Date of Hearing: 29.11.2023

Date of Pronouncement: 30.11.2023

ORDER

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

The present appeal has been filed by assessee against the order of Id. CIT(A)-3, Bhopal dated 22.06.2021.

2. The assessee has raised the following grounds of appeal as under:-

1. *The Ld CIT(A) has erred in confirming the penalty levied by Ld AO u/s 271(1)(c).*

2. *The levy of penalty is illegal for various reasons, which inter alia includes the reason that the LAO was not clear as to for which limb of section 271(1)(c) the penalty was being levied that is whether it was for furnishing inaccurate particulars of income or for concealment of income etc.*

3. *The Ld. CIT(A) was not justified and had no authority to ignore binding decision of Hon'ble MP HC in the case of PCIT Vs. Kulwant singh Bhatia 304 CTR 103. The Id. CIT(A) was incompetent to ignore this decision.*

4. *The penalty order is null and void as the LAO has not discharged his initial burden of showing whether the assessee had concealed particulars of income or furnished inaccurate particulars of income as held by Hon'ble MP HC and upheld by Hon'ble SC in the case of sureshchand mittal 251 ITR 9.*

5. *The Id. CIT(A) willfully ignored binding decision of jurisdictional HC as above. Hence the appellant should be awarded cost and should be held as guilty*

of willful contempt of court as he has caused hardship on the assessee by passing illegal order.

6. The penalty is also illegal for the reason that the Id. JCIT approved the penalty without application of mind.

7. The penalty is also illegal on the ground that the assessment order itself is null and void as it should have been made u/s 153C and not u/s 143(3).

8. The penalty is also illegal on the ground that there is no merit in levying penalty as there are two views possible on the nature of additions made.

2. At the outset, it was brought to our notice that the quantum addition made by the Assessing Officer stands deleted by the order of the Tribunal in the assessee's own case in ITA no. 50/JAB/2018 order dated 23.11.2023.

3. Hence, we hold that the penalty levied u/s. 271(1)(c) do not survive.

4. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 30/11/2023.

Sd/-
(Yogesh Kumar U.S)
Judicial Member

Sd/-
(Dr. B. R. R. Kumar)
Accountant Member

Jabalpur Dated: 30/11/2023

NV, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT JABALPUR