

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE "A" BENCH : PUNE

[THROUGH VIRTUAL HEARING]

BEFORE SHRI RAMA KANTA PANDA, VICE PRESIDENT  
AND  
SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.135/PUN./2024  
Assessment Year 2017-2018

Mahavir Realties, 321/1/B, Munot Bhawan, Timber Market Road, Bhawani Peth, PUNE - 411 042. Maharashtra.	vs.	The ACIT, Circle-5, 3 <sup>rd</sup> Floor, B-Wing, Income Tax Office, PMT Bldg., Shankar Sheth Road, Pune - 411 037. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Shri Ramnath P. Murkunde

Date of Hearing :	23.04.2024
Date of Pronouncement :	24.04.2024

**ORDER**

**PER SATBEER SINGH GODARA, J.M. :**

This Revenue's appeal for assessment year 2017-2018, arise against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1058210210(1), dated 24.11.2023, involving proceedings u/s.270 of the Income Tax Act, 1961 (in short "the Act").

Case called twice. None appears at assessee's behest. He is accordingly proceeded ex-parte.

2. The assessee's sole substantive grievance pleaded in the instant appeal seeks to reverse both the learned lower

authorities action levying “200%” penalty thereby regarding non-disclosure of interest income of Rs.21,84,353/-; during the course of quantum assessment, amounted to “under reporting” of the total income as a consequence to “mis-reporting” u/sec.270A(8) and (9) of the Act. Mr. Murkunde vehemently argued that this is a clear-cut instance wherein the learned departmental authorities have found the assessee not to have disclosed its impugned interest income which attracts the penalty proceedings in question.

3. We have given our thoughtful consideration to the assessee’s pleadings and Revenue’s vehement contentions in support of their respective stands. We find no reason to sustain the impugned penalty for the precise reason that although the legislature has stipulated specific clauses (a) and (f) to sub-sec.(9); to be read with sub-sec.(8) of sec.270A; learned lower authorities have nowhere pinpointed as to which limb the assessee had committed its default attracting “under-reporting” as a consequence of “mis-reporting”. That being the case, not only hon’ble jurisdictional high court’s recent Full Bench landmark decision in Mohd. Farhan A.Shaikh Vs. ACIT [2021] 434 ITR 1 (Bom) has held that such a failure on the Assessing Officer’s part indeed vitiates the entire penal proceedings [in old scheme], but also the very principle applies *qua* this new scheme of sec.270A applicable w.e.f. 01.04.2017 for assessment year 2017-2018 onwards as

per Schneider Electric South East Asia (HQ) Ltd., vs. ACIT [2022] 443 ITR 186 (Delhi). We thus accept the assessee's instant sole substantive grievance in very terms to conclude that the learned lower authorities have not specified the corresponding limb in their respective orders. Ordered accordingly.

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

Order pronounced in the open Court on 24.04.2024.

Sd/-  
[RAMA KANTA PANDA]  
VICE PRESIDENT

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 24<sup>th</sup> April, 2024

VBP/-

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1.	The appellant
2.	The respondent
3.	The Pr. CIT, Pune concerned.
4.	D.R. ITAT, "A" Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,  
Pune.