IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI

SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No. 3498/MUM/2023
(Assessment Year: 2016-17)

General Electric International Inc., Building No. 7A, 1st Floor, DLF Cyber City, DLF Phase III, Sector 25A, Gurgaon, DLF QE S.O, Gurgaon, Haryana - 122002 [PAN: AAACG1705D]	.....	**Appellant**
Deputy Commissioner of Income-Tax International Tax Circle 2(3)(2), Mumbai, Room No. 1711, 17th Floor, Air India Building, Nariman Point, Mumbai, - 400021	Vs	**Respondent**

Appearance

For the Appellant/Appellant	:	Shri Dhanesh Bafna Ms. Riddhi Maru, Ms. Hinal Shah
For the Respondent/Department	:	Shri Veerbhandra Mahajan

Date

Conclusion of hearing	:	02.05.2024
Pronouncement of order	:	16.05.2024

O R D E R

Per Rahul Chaudhary, Judicial Member:

1. By way of the present appeal the Appellant has challenged the order, dated 07/08/2023, passed by the Ld. Commissioner of Income Tax (Appeals) – 56, Mumbai, [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2016-17, whereby the Ld. CIT(A) had dismissed the appeal of the Appellant against the Penalty Order, dated 26/03/2022, passed under Section 271(1)(c) of the Income Tax Act, 1961 (hereinafter referred to

as 'the Act').

2. The Appellant has raised the following grounds of appeal:

"1. On the facts and in the circumstances of the case, and in law, the order of the Ld. CIT(A) passed under section 250 of the Act is erroneous, devoid of facts and contrary to the provisions of the law and accordingly, liable to be quashed.

2. On the facts and in the circumstances of the case and in law, the penalty order dated 26 March 2022 passed under section 271(1)(c) of the Act in consequence of the invalid assessment order dated 28 February 2020 passed under section 143(3) read with section 144C(3) of Act is void ab initio, at nullity and bad in law.

3. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in confirming the action of the Learned Assessing Officer ('Ld. AO') in levying a penalty of INR 30,57,730 under section 271(1)(c) of the Act.

4. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) confirmed the levy of penalty u/s 271(1)(c) on account of concealment of income, without appreciating the fact as under-

a) The Ld. AO has levied penalty u/s 271(1)(c) of the Act on account on furnishing of inaccurate particulars of income.

b) The Appellant has provided bona fide explanation/reasonable cause in respect of additional income of INR 1,95,86,904 which has been suo moto offered to tax.

c) The Appellant has provided bona fide explanation/reasonable cause in respect of

taxability of soft skills/non-technical training of INR 11,96,947.

The above grounds of appeals are without prejudice to and independent of one another.

The Appellant craves leave to add, alter, amend, modify or withdraw all or any grounds herein or add any further grounds as may be considered necessary and to submit such statements, documents and papers either before or during the hearing of these grounds."

3. The relevant facts in brief are that the Appellant filed return of income for the Assessment Year 2016-17 on 30/11/2016 offering to tax:

(a) Branch Profits of INR 11,16,10,320/-, on net basis,

(b) Technical Service Fee of INR 2,59,01,40,336/- as Fee For Included Services at the rate of 15%, on, gross basis, as per Article 12 of Double Taxation Avoidance Agreement (DTAA) between India and USA [*for short 'DTAA'*] and

(c) Royalty income of INR 1,61,09,078/- at the rate of 10%, on gross basis, as per the provisions of the Act

3.1. The case of the Appellant was selected for scrutiny under the criteria of compulsory selection and reference was made to the Transfer Pricing Officer (TPO) for determination of the Arm's Length Price (ALP). Vide order, dated 01/11/2019, the TPO recommended that no transfer pricing adjustments were required. In response to the notices issued, the Appellant has made its submission on 01/10/2018, and 23/10/2018. Thereafter, on account of change of incumbent, fresh notice under Section 142(1) of the Act along with questionnaire was issued to the Appellant on 16/11/2019. Thereafter on the Appellant filed replies dated, 02/12/2019 and on 20/12/2019 on

ITBA/E-Assessment portal. By way of the Submission filed on 20/12/2019, the Appellant placed on assessment record revised computation of income offering an additional income of INR 1,95,86,904/- to tax Fee for Included Services (for short '**FIS**') in terms of Article 12 of the DTAA, in addition to the FIS income of INR 2,59,01,40,336/- already declared by the Appellant in the return of income. The Assessing Officer brought to tax additional income as offered by the Appellant and initiated penalty proceedings for furnishing inaccurate particulars of income under Section 271(1)(c) of the Act. The Assessing Officer also made addition of INR 11,96,947/-, being income for rendering soft skills/non-technical training to employees of group companies held to be liable to tax as Fee for Technical Services at the rate of 10% as per Section 115A of the Act. The Assessing Officer initiated penalty proceedings for furnishing inaccurate particulars of income under Section 271(1)(c) of the Act, in respect of the aforesaid addition of INR 11,96,947/-. The penalty proceedings culminated in passing of the Penalty Order, dated 26/03/2022, whereby penalty of INR 30,57,730/-, being 100% of tax sought to be evaded, was levied under Section 271(1)(c) of the Act for furnishing inaccurate particulars of income.

3.2. The appeal preferred by the Appellant against the Penalty Order, dated 26/03/2022, was dismissed by the CIT(A) on 07/08/2023.

3.3. Being aggrieved, the Appellant has preferred the present appeal before the Tribunal against the order of CIT(A), dated 07/08/2023, on the grounds reproduced in paragraph 2 above.

4. The Learned Authorized for the Appellant submitted as under:

(a) The Assessing Officer erred in concluding that the

Appellant has furnished inaccurate particulars of income in respect of suo-moto disclosure of income of INR 1,95,86,904/- made during the assessment proceedings. He submitted that when the case of the Appellant was selected for scrutiny, the Appellant had filed submission on 28/09/2018 placing on assessment record original computation of income along with notes to computation. In the notes to computation, it disclosed that certain receipts (including Soft Skill and Non-Technical Training Charges) were not offered to tax in the return of income as well as basis for the same. The aforesaid reply was filed before the issue of questionnaire along with notice dated 16/11/2019. During the assessment proceedings, the Appellant on its own noticed that receipts of INR 1,95,86,904/- has been inadvertently considered as receipts for Soft-Skill Training and claimed as non-taxable in the return of income. In view of this inadvertent human error, vide letter dated 20/12/2019, the Appellant voluntarily offered the receipts of INR 1,95,86,904/- to tax at 15% as FIS as per Article 12 of the DTAA which resulted in reduction of the refund claimed in the return of income. The additional income voluntary offered to tax, which constituted merely 0.72% of the total taxable income declared by the Appellant in the return of income, was accepted by the Assessing Officer. The Appellant did not have any intention to evade tax. The inadvertent human error was corrected as soon as the same came to the notice of the Assessee. All the facts were placed before the Assessing Officer and the Appellant did not furnish any inaccurate particulars of income. Even if it is assumed that there was inaccurate furnishing of particulars of income, it

was on account of inadvertent human error.

(b) The Assessing Officer had erred in concluding that the Appellant had furnished inaccurate particulars of income in respect of addition of receipts from Soft-Skills/Non-Technical Training of INR 11,96,947/- brought to tax in hands of the Appellant as all the material facts were correctly disclosed in the return of income as well as during the assessment proceedings. During the assessment proceedings, the Appellant had furnished detailed explanation why the receipts from Soft Skills/Non-Technical Training were not taxable in India as per the Act and DTAA. It was vehemently contended that penalty provisions contained in Section 271(1)(c) of the Act would not be attracted automatically merely because the legal contentions and arguments on non-taxability of receipts from Soft Skills/Non-Technical Training were not accepted by the Assessing Officer.

(c) The Ld. Authorised Representative for the Appellant placed reliance upon the judgment of the Hon'ble Bombay High Court in the case of Vijay Bhagwandas Raheja Vs. Deputy Commissioner of Income-tax: [2024] 160 taxmann.com 684 (Bombay)[07-02-2024], and Commissioner of Income Tax – I, Mumbai Vs. Bennett Coleman & Co. Ltd: [2013] 215 Taxman 93 (Bombay) (Mag.)/[2013] 259 CTR 383 (Bombay)[26-02-2013], in support of the above contentions.

5. Per contra, the Ld. Departmental Representative, placing reliance on the assessment order, dated 28/02/2020 and the penalty order dated 26/03/2022, submitted that the revised

computation of income was filed by the Appellant only after the case of the Appellant was selected for scrutiny and notices were issued by the Assessing Officer calling for relevant details and information. The Appellant did not file revised return of income and merely submitted a revised computation of income along with Submission dated 20/12/2019 declaring additional income of INR 1,95,86,904/-. Thus, the disclosure of additional income by the Appellant was not voluntarily; the Appellant had clearly furnished inaccurate particulars of income; and the Assessing Officer was correct in levying penalty for furnishing inaccurate particulars of income under Section 271(1)(c) of the Act in respect of the same. Further, the receipts from Soft-Skills/Non-Technical Training amounting to INR 11,96,497/- were neither offered to tax in the return of income nor in the revised computation of income. Income which was liable to tax was not offered to tax in the computation of income. Therefore, addition was made by the Assessing Officer. Clearly, the Appellant had furnished inaccurate particulars of income. The Ld. Departmental Representative also pointed out that the Appellant had not preferred appeal challenging the addition made by the Assessing Officer and therefore, on merits the issues have attained finality. The Ld. Departmental Representative supported levy of penalty of INR 30,57,730/- levied under Section 271(1)(c) of the Act and submitted that the same be sustained.

6. In rejoinder, the Ld. Authorised Representative submitted that the Appellant had voluntarily offered to tax additional income of INR 1,95,86,904/- and therefore, question of challenging the addition before CIT(A) did not arise. As regard addition of INR 11,96,947/- in respect of receipts from Soft-Skills/Non-Technical Training, the aforesaid addition was not challenged in appeal to

buy peace of mind and to avoid protracted litigation given the smallness of the amount involved. Thus, the fact that the Appellant did not file an appeal before CIT(A) challenging the additions made by the Assessing Officer cannot lead to any adverse inference against the Appellant.

7. We have considered the rival submissions and perused the material on record.

8. It emerges that the Appellant had taken a legal position that receipts from Soft-Skill/Non-Technical Training was not liable to tax in India in terms of Article 12 of the DTAA since, according to the Appellant, the same did not make available any technical skill knowledge etc. Accordingly, receipts from Soft-Skill/Non-Technical Training were not offered to tax in the return of income. In the computation of income, disclosure to this effect was made by the Appellant. However, inadvertently, on account of human error, receipts of INR 1,95,86,904/- which were otherwise taxable as FIS in terms of Article 12 of DTAA, were also grouped with receipts from Soft-Skill/Non-Technical Training and therefore, the same was also not offered to tax in the return of income. During the assessment proceedings, when the aforesaid fact came to the knowledge of the Appellant, additional receipts of INR 1,95,86,904/- were offered to tax by the Appellant as additional income taxable in the hands of the Appellant as FIS in terms of Article 12 of DTAA. While framing assessment, the Assessing Officer brought to tax the aforesaid additional income of INR 1,95,86,904/- offered to tax by the Appellant. The Assessing Officer also arrived at a conclusion that receipts of INR 11,96,947/- from Soft-Skill/Non-Technical Training were taxable in India. In the aforesaid facts and circumstances the Assessing Officer initiated penalty

proceedings and penalty of INR 30,57,730/- was levied on the Appellant under Section 271(1)(c) of the Act for furnishing inaccurate particulars of income.

9. As regards penalty levied by the Assessing Officer under Section 271(1)(c) of the Act in respect of addition of Soft-Skills/Non-Technical Training Fee of INR 11,96,947/- is concerned, we note that none of the facts/details furnished by the Appellant were found to be factually incorrect by the Assessing Officer. The contention of the Appellant was that the receipts from Soft-Skills/Non-Technical Training were not liable to tax in India as FIS under Article 12 of DTAA as no technical consultancy, skill, experience etc was made available was rejected by the Assessing Officer. It has not been disputed by the Revenue that in the original computation of income the Appellant had disclosed the receipts from Soft-Skills/Non-Technical Training were not being offered to tax. It is settled legal position that mere making of claim, which is not sustainable in law, by itself, will not amount to furnishing incorrect particulars regarding the income of assessee. In the case of **Vijay Bhagwandas Raheja Vs. Deputy Commissioner of Income-tax: [2024] 160 taxmann.com 684 (Bombay)[07-02-2024]**, the Hon'ble Bombay High Court has, following the judgment of the Hon'ble Supreme Court in the case of CIT v. Reliance Petroproducts (P.) Ltd. : 322 ITR 158 (SC) held as under:

"8. As held by the Hon'ble Apex Court in Reliance Petroproducts (P.) Ltd. (supra), in order to be covered under this provision, there has to be concealment of the particulars of income of assessee or assessee must have furnished inaccurate particulars of his income. It is not Revenue's case that there was any concealment of income. The entire basis is that by initially filing the return of income showing gain

made from the sale of the property at Bangalore as long term capital gain, assessee has furnished inaccurate particulars of income. Admittedly, no information given in the return was found to be incorrect or inaccurate. It is not as if any statement made or any detail supplied was found to be factually incorrect. Submitting an incorrect claim in law of long term capital gain would not tantamount to furnishing inaccurate particulars. We should also note that the assessment order itself was passed after assessee furnished its revised computation of income. A mere making of a claim which is not sustainable in law, by itself, will not amount to furnishing inaccurate particulars regarding income of assessee. Such claim made in the returns cannot amount to inaccurate particulars. We find support for this view in Reliance Petroproducts (P.) Ltd. (supra) where Paragraph Nos. 8 to 12 read as under:

** ** **

"8. A glance at this provision would suggest that in order to be covered, there has to be concealment of the particulars of the income of the assessee. Secondly, the assessee must have furnished inaccurate particulars of his income. The present is not a case of concealment of the income. That is not the case of the Revenue either. However, the learned counsel for Revenue suggested that by making incorrect claim for the expenditure on interest, the assessee has furnished inaccurate particulars of the income. As per Law Lexicon, the meaning of the word "particular" is a detail or details (in plural sense); the details of a claim, or the separate items of an account. Therefore, the word "particulars" used in the Section 271(1) (c) would embrace the meaning of the details of the claim made. It is an admitted position in the present case that no information given in the return was found to be incorrect or inaccurate. It is not as if any statement made or any detail supplied was found to be factually incorrect. Hence, at least, prima facie, the assessee cannot be held guilty of furnishing inaccurate particulars. The Learned Counsel argued that "submitting an incorrect claim in law for the expenditure on

interest would amount to giving inaccurate particulars of such income". We do not think that such can be the interpretation of the concerned words. The words are plain and simple. In order to expose the assessee to the penalty unless the case is strictly covered by the provision, the penalty provision cannot be invoked. By any stretch of imagination, making an incorrect claim in law cannot tantamount to furnishing inaccurate particulars. In CIT v. Atul Mohan Bindal [2009] 9 SCC 589, where this court was considering the same provision, the court observed that the Assessing Officer has to be satisfied that a person has concealed the particulars of his income or furnished inaccurate particulars of such income. This Court referred to another decision of this Court in Union of India v. Dharamendra Textile Processors [2008] 13 SCC 369 as also, the decision in Union of India v. Rajasthan Spg. & Wvg. Mills [2009] 13 SCC 448 and reiterated in para 13 that:-

> *"13. It goes without saying that for applicability of Section 271(1)(c), conditions stated therein must exist."*

9. *Therefore, it is obvious that it must be shown that the conditions under section 271(1)(c) must exist before the penalty is imposed. There can be no dispute that everything would depend upon the return filed because that is the only document, where the assessee can furnish the particulars of his income. When such particulars are found to be inaccurate, the liability would arise. In Dilip N. Shroff v. Joint CIT [2007] 6 SCC 329, this court explained the terms "concealment of income" and "furnishing inaccurate particulars". The Court went on to hold therein that in order to attract the penalty under section 271(1)(c), mens rea was necessary, as according to the court, the word "inaccurate" signified a deliberate act or omission on behalf of the assessee. It went on to hold that clause (iii) of section 271(1)(c) provided for a discretionary jurisdiction upon the assessing authority, inasmuch as the amount of penalty could not be less than the amount of tax sought to be evaded by reason of such concealment of particulars of income, but it may not exceed three times thereof. It was pointed out that the term "inaccurate particulars" was not defined anywhere in the Act and, therefore, it was held that furnishing of an assessment of the value of the*

property may not by itself be furnishing inaccurate particulars. It was further held that the Assessing Officer must be found to have failed to prove that his explanation is not only not bona fide but all the facts relating to the same and material to the computation of his income were not disclosed by him. It was then held that the explanation must be preceded by a finding as to how and in what manner, the assessee had furnished the particulars of his income. The court ultimately went on to hold that the element of mens rea was essential. It was only on the point of mens rea that the judgment in Dilip N. Shroff v. Joint CIT was upset. In Union of India v. Dharamendra Textile Processors, after quoting from Section 271 extensively and also considering Section 271(1)(c), the Court came to the conclusion that since Section 271(1)(c) indicated the element of strict liability on the assessee for the concealment or for giving inaccurate particulars while filing return, there was no necessity of mens rea. The Court went on to hold that the objective behind enactment of Section 271(1)(c) read with Explanations indicated with the said section was for providing remedy for loss of revenue and such a penalty was a civil liability and, therefore, willful concealment is not an essential ingredient for attracting civil liability as was the case in the matter of prosecution under section 276-C of the Act. The basic reason why decision in Dilip N. Shroff v. Joint CIT was overruled by this court in Union of India v. Dharamendra Textile Processors was that according to this court the effect and difference between Section 271(1)(c) and Section 276-C of the Act was lost sight of in case of Dilip N. Shroff v. Joint CIT. However, it must be pointed out that in Union of India v. Dharmendra Textile Processors, no fault was found with the reasoning in the decision in Dilip N. Shroff v. Joint CIT, where the court explained the meaning of the terms "conceal" and inaccurate". It was only the ultimate inference in Dilip N. Shroff v. Joint CIT to the effect that mens rea was an essential ingredient for the penalty under section 271(1)(c) that the decision in Dilip N. Shroff v. Joint CIT was overruled.

10. *We are not concerned in the present case with the mens rea. However, we have to only see as to whether in this case, as a matter of fact, the*

assessee has given inaccurate particulars. In Webster's Dictionary, the word "inaccurate" has been defined as:

> *"not accurate, not exact or correct; not according to truth; erroneous; as an inaccurate statement, copy or transcript".*

11. *We have already seen the meaning of the word "particulars" in the earlier part of this judgment. Reading the words in conjunction, they must mean the details supplied in the return, which are not accurate, not exact or correct, not according to truth or erroneous. We must hasten to add here that in this case, there is no finding that any details supplied by the assessee in its return were found to be incorrect or erroneous or false. Such not being the case, there would be no question of inviting the penalty under section 271(1)(c) of the Act. A mere making of the claim, which is not sustainable in law, by itself, will not amount to furnishing inaccurate particulars regarding the income of the assessee. Such claim made in the return cannot amount to the inaccurate particulars.*

12. *It was tried to be suggested that Section 14A of the Act specifically excluded the deductions in respect of the expenditure incurred by the assessee in relation to income which does not form part of the total income under the Act. It was further pointed out that the dividends from the shares did not form the part of the total income. It was, therefore, reiterated before us that the Assessing Officer had correctly reached the conclusion that since the assessee had claimed excessive deductions knowing that they are incorrect; it amounted to concealment of income. It was tried to be argued that the falsehood in accounts can take either of the two forms; (i) an item of receipt may be suppressed fraudulently; (ii) an item of expenditure may be falsely (or in an exaggerated amount) claimed, and both types attempt to reduce the taxable income and, therefore, both types amount to concealment of particulars of one's income as well as furnishing of inaccurate particulars of income. We do not agree, as the assessee had furnished all the details of its expenditure as well as income in its return, which details, in themselves, were not found to be inaccurate nor could be viewed as the concealment of income on its part. It was up*

> *to the authorities to accept its claim in the Return or not. Merely because the assessee had claimed the expenditure, which claim was not accepted or was not acceptable to the Revenue, that by itself would not, in our opinion, attract the penalty under section 271(1)(c). If we accept the contention of the Revenue then in case of every Return where the claim made is not accepted by Assessing Officer for any reason, the assessee will invite penalty under section 271(1)(c). That is clearly not the intendment of the Legislature.*

9. *The sum and substance of assessee's case is that assessee had neither concealed any income nor furnished any incorrect particulars of such income. Admittedly, assessee had shown correct sale consideration of the property and also shown correct cause of depreciation in the return of income, so no income as such has been concealed. The only thing that assessee did was claiming a particular income (Capital Gain) under different head namely under long term capital gains as against short term capital gains. Assessee claims that it was done under bona fide belief that the asset was a long term asset as it was held for more than three years. Just because assessee was a director in some companies cannot be a reason to state that claiming this short term capital gain as long term capital gain was to avoid payment of any tax. In any event as noted earlier the entire short term capital gain was paid even before the assessment order was passed. A mere making of claim, which is not sustainable in law, by itself, will not amount to furnishing incorrect particulars regarding the income of assessee. Such a claim made in the return cannot amount to furnishing inaccurate particulars as held by the Hon'ble Apex Court in Reliance Petroproducts (P.) Ltd. (supra).*

10. *In the circumstances, in our view, the tribunal was not correct in interfering with the order passed by the CIT(A). All questions are answered accordingly in the facts and circumstances of the present case" (Emphasis Supplied)*

9.1. In the present case also while the legal claim of the Appellant has been rejected by the Assessing Officer, the Appellant has made disclosure of all material facts and none of the details have been found to be factually incorrect. Therefore, in view of the above judgment of the Hon'ble Jurisdictional High Court, given the facts and circumstances of the present case, it cannot be said that Appellant has furnished inaccurate particulars of income in relation to receipts of Soft-Skills/Non-Technical Training Fee of INR 11,96,947/-. Accordingly, penalty levied by the Assessing Officer under Section 271(1)(c) of the Act in respect of receipt of Soft-Skills/Non-Technical Training Fee of INR 11,96,947/- is deleted.

10. As regards penalty levied by the Assessing Officer under Section 271(1)(c) of the Act in respect of additional income of INR 1,95,86,904/- offered to tax by the Appellant is concerned, we find that the Appellant has provided explanation for the same. It has been explained that on account of incorrect grouping of accounts, the income of INR 1,95,86,904/- could not be offered to tax in the return of income. During the assessment proceedings, when the aforesaid inadvertent mistake came to the knowledge of the Appellant, corrective action was taken by the Appellant and revised computation of income was filed by the Appellant voluntarily offering additional income to tax FIS. It has been contended by the Revenue that the Appellant offered additional income to tax only after notice was issued to the Appellant and therefore, the contention of the Appellant that additional income was offered to tax voluntarily is not correct. Reliance was also placed on the decision of the Hon'ble Supreme Court in the case of MAK Data (P.) Ltd. Vs. CIT [2013]: 358 ITR 593 (SC) to contend that even in case of voluntary disclosure, penalty can be levied. However, in our view, the aforesaid

judgment of the Hon'ble Supreme Court is not applicable to the facts of the present case. In that case no explanation was offered by the assessee and in absence of any explanation in respect of the surrendered income, the Hon'ble Supreme Court held that the law did not provide that when an assessee makes a voluntary disclosure of his concealed income, such assessee had to be absolved from penalty. In that case, dismissing the appeal of the assessee, the Hon'ble Supreme Court held that voluntary disclosure does not release the assessee from the mischief of penal proceedings. In the present case the Appellant has offered explanation which, in our view, is bonafide and reasonable. We note that in the present case the Appellant had offered income of INR 2,59,01,40,336/- to tax as FIS in the return of income. Income of INR 1,95,86,904/- was not offered to tax on account of incorrect grouping of accounts. This additional income, offered by way of revised computation, was merely around 0.70% of FIS income already offered to tax. In the similar facts and circumstances, in the case of **Commissioner of Income Tax – I, Mumbai Vs Bennett Coleman & Co. Ltd: [2013] 215 Taxman 93 (Bombay) (Mag.)/[2013] 259 CTR 383 (Bombay)[26-02-2013],** the Hon'ble Bombay High Court had declined to interfere with the order passed by the Tribunal deleting the penalty levied under Section 271(1)(c) of the Act on the ground that there was inadvertent mistake on the part of the assessee in that case. The relevant extract of the aforesaid judgment reads as under:

> *"2. So far as question (i) is concerned, the respondent-assessee has claimed deduction of interest on tax free bonds of Rs.5,60,11,644/-. During the course of the assessment proceedings, the assessee was asked to give details of interest on tax free bonds. While preparing the said details, it was noticed that 6% Government of India Capital Index*

> *Bonds purchased during the year had **inadvertently been categorized as tax free bonds** and, therefore, interest of Rs.75,00,000/- earned on such bonds had also inadvertently escaped tax. The assessing officer levied penalty under Section 271(1)(c) of the Income Tax Act, 1961 (the Act). The CIT(A) upheld the order of the Assessing Officer. On further appeal, the Tribunal in the impugned order records a finding of fact that by inadvertent mistake interest @ 6% on the Government of India Capital Index Bonds was shown as tax free bonds. The Tribunal concluded that there was no desire on the part of the respondent-assessee to hide or conceal the income so as to avoid payment of tax on interest from the bonds. In that view of the matter, the Tribunal deleted the penalty imposed upon the respondent-assessee under Section 271(1)(c) of the Act. In view of the fact that the decision of the Tribunal is based on finding of fact that there was an inadvertent mistake on the part of the assessee in including the interest received of 6% on the Government of India Capital Index Bonds as interest received on tax free bonds. It is not contended by the Revenue that above finding of fact by the Tribunal is perverse. In these circumstances, we see no reason to entertain the proposed question (i)."*

10.1. In view of the above, we accept the contention of the Appellant that there was inadvertent error on behalf of the Appellant on account of which income of INR 1,95,86,904/- could not be offered to tax. We hold that the above said facts, relevant to the addition of INR 1,95,86,904/- made by the Assessing Officer, do not warrant levy of penalty under Section 271(1)(c) of the Act for furnishing inaccurate particulars of income. Accordingly, the corresponding penalty levied under Section 271(1)(c) of the Act is deleted.

11. In view of paragraph 9 to 10.1 above, penalty of INR 30,57,730/- levied under Section 271(1)(c) of the Act for furnishing inaccurate particulars of income is deleted and Ground No. 3 & 4 raised by the Appellant are allowed. Accordingly, Ground No. 1 & 2 raised by the Appellant are

dismissed as being infructuous.

12. In result, the present appeal preferred by the Appellant is allowed for statistical purposes.

Order pronounced on 16.05.2024.

Sd/-	***Sd/-***
(Narendra Kumar Billaiya) **Accountant Member**	**(Rahul Chaudhary)** **Judicial Member**

मुंबई Mumbai; दिनांक Dated : 16.05.2024
Alindra, PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai