

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No. 505/Bang/2024
Assessment Year : 2016-17

The Deputy Commissioner of Income Tax, Circle – 4(1)(1), Bangalore.	Vs.	M/s. Mitsubishi Heavy Industries – VST Diesel Engines Pvt. Ltd., Plot No. 305, Hebbal Industrial Area, Metagalli, Mysuru – 570 016. PAN: AAFCM1573L
APPELLANT		RESPONDENT

Assessee by	:	Shri Ankith, CA
Revenue by	:	Shri Subramanian .S, Addl. CIT (DR)

Date of Hearing	:	02-05-2024
Date of Pronouncement	:	29-05-2024

ORDER

PER KESHAV DUBEY, JUDICIAL MEMBER

This appeal at the instance of the revenue is directed against the Order of the Ld.CIT(A)/NFAC vide DIN & Order No. ITBA/NFAC/S/250/2023-24/1059833301(1) dated 17.01.2024 for the Assessment Year 2016-17 passed u/s. 250 of the IT Act, 1961.

2. The Revenue is aggrieved by the decision of the Ld. CIT(A)/NFAC in deleting the penalty of Rs. 1,78,30,779/- levied by the AO U/S 271(1)(c) of the Income Tax Act, 1961.

3. Before us the Revenue has raised the following grounds of appeal :

“i. The Ld. Addl. CIT(A) has erred on the facts and circumstances of the case that had the assessing officer not issued the notice u/s 142(1) dated 10.12.2018, the assessee would not have admitted the set off of brought forward losses at Rs.4,91,78,071/- and would have got the refund.

ii. The Ld. Addl. CIT(A) erred in not holding that non-reporting of revised entitlement of set off of brought forward losses in consequent to order giving effect to MAP resolution by assessee suo-moto amounts to furnishing inaccurate particulars of income.”

4. The facts that lead to levy of penalty U/s 271(1)(c) of the Income Tax Act, 1961 are stated in brief as under:-

4.1 The brief facts of the case are that the Appellant Company is in the business of manufacturing and servicing of diesel engines and its components. The Appellant company bearing PAN AAFCM1573L filed the return of income for A.Y 2016-17 on 30.11.2016 declaring total income of Rs.81,53,230/-. Subsequently, the Assessee filed its revised return of income on 25.05.2017 declaring total income of Rs.4,87,96,230/- and paid the taxes as per the provisions of the Income Tax Act. On receipt of Rectification order and MAP Orders for AY 2009-10 and AY 2011-12 in the month of December 2016, assessee filed a revised return on 25.05.2017 for AY 16-17 as there was a change in the income tax loss carried forward for set off in subsequent years. The

revised return also resulted in reduction in the refund amount as claimed in the original return. A letter dated 26/05/2017 was filed with the jurisdictional AO informing him the same and disclosing a statement of losses on 26.05.2017.

4.2 Again after the receipt of Order giving effect (OGE) to MAP Order for AY 2012-13 on 10.05.2018, the assessee prepared a revised computation from AY 2013-14 to AY 2016-17 and arrived at additional Income Tax liability of Rs. 96,39,172/- for AY 2016-17. The assessee company had earlier revised the returns for AY 2016-17 on 25.05.2017 on suo-moto basis due to change in position of carry forward losses affected by rectification order and MAP order received for AY 2009-10 and 2011-12. Further, as submitted before us the assessee again had the intention of filing revised return on receipt of OGE of MAP order for AY 2012-13 on 10th May 2018. However, as the time limit for filing a revised return u/s 139 (5) for AY 2016-17 had lapsed i.e., on 31/03/2018, the assessee was not in a position to file the revised return and hence, paid the amount of income tax liability of Rs. 96,39,172/- on 30th May 2018 as matter of compliance and to make sure there is no tax liability dues. Thus, the applicable taxes were paid on 30.5.2018 as also accepted by the appellant. Tax payment challan attached are part of the paper book submitted by the AR of the Assessee,

4.3 The revised return of income was selected for scrutiny under CASS. Notice u/s 143(2) of the Income tax Act was issued to the assessee on 16.08.2018 and duly served on the assessee.

4.4 Further, notices u/s 142(1) were issued on 30.09.2018 and 10.12.2018 seeking certain information. The assessment proceedings were initiated and the Assessee duly produced the information called for.

4.5 The appellant filed submission on 13.12.2018 which also furnished the revised computation on carry forward of loss due the OGE of MAP order for AY 12-13 along with details of the tax paid on 30th May, 2018.

4.6 After considering the submissions and explanations of the Assessee, order u/s 143(3) of the Income tax Act was passed by the Income tax Officer, Ward-4(1)(3) (herein after referred as AO), Bengaluru on 17.12.2018 making an addition of Rs.5,24,58,897/- by disallowing the excess brought forward losses/unabsorbed depreciation claimed, which was on account of the adjustment due to the OGE of the MAP order received on 10/05/ 2018 by which time the statutory time limit for filing the revised return was over. The AR of the Assessee submitted that the order u/s 143(3) was passed without considering the submissions made by the assessee on 13.12.2018 which had mentioned about the additional taxes paid by the Assessee on 30.05.2018. The income was assessed at Rs.10,12,55,130/ and accordingly the penalty u/s. 271(1)(c) was initiated on 17.12.2018 for furnishing inaccurate particulars of income.

4.7 The assessee also filed for rectification u/s 154 on 20.12.2018 before the AO to consider the suo motto challan paid on 30.05.2018 and rectify the additions and demand raised by the AO. The AO vide order dated 13.3.2019 rectified and reduced the tax demand raised after considering the additional taxes paid by the Assessee.

4.8 Further, in response to the initiation of penalty proceedings, the assessee made his submission vide letter dated 13.03.2019 stating that penalty could not be levied since the assessee had furnished all the details and acted in bona fide manner in filing returns and payment of taxes and hence, there was no furnishing of inaccurate particulars of income. Further, during the proceedings, the assessee had submitted all the relevant documents from time to time as requested by the AO and fully co-operated in completing the assessment proceedings.

4.9 Subsequently, the case was transferred to Circle-4(1)(2), Bengaluru and another notice dated 19.06.2019 was served to the assessee providing fresh opportunity to make submission. In response to above notice, the assessee acted in a bonafide manner and again made submission on 25.06.2019 with the details of the case explaining that there was no furnishing of inaccurate particulars of income as the assessee had furnished all the true particulars without any misstatements.

4.10 The Table showing the chronological order of the relevant dates is provided in the following table for easy reference:

Particulars	Date
Original Return Filed	30/11/2016
Revised return filed by the Assessee by considering the reduced carry forward losses as per rectification order and MAP order for AY 2009-10 and AY 2011-12	25/5/ 2017
Letter filed with jurisdictional AO informing about the revised return and furnishing the details of losses	26/05/2017
Date of the order giving effect for MAP order passed for AY 12-13	10/5/ 2018
Suo-moto payment of additional taxes by the Assessee based on order giving effect received for AY 12-13 [Note - Revised return not filed as the time elapsed for filing revised return]	30/5/2018
Date of Issue of Notice u/s 143(2) of the IT Act	16/8/2018
Date of Issue of Notice u/s 142(1) of the IT Act seeking certain information	30/9/2018 & 10/12/2018
Submission and disclosure of facts and details regarding revised return and payment of additional taxes along with revised computation	13/12/ 2018
Order u/s 143(3) of the IT Act passed by ITO Ward 4(1)(3) dis- allowing excess brought forward losses/unabsorbed depreciation, Demand Notice and Initiation of penalty u/s 271(1)(c)	17/12/2018
Rectification u/s 154 filed by the assessee with ITO for considering the additional taxes paid	20/12/2018
Rectification order u/s 154 by the ITO Ward 4(1)(3) granting credit of additional taxes paid	13/3/2019
Submission of response in lieu of initiation of penalty proceedings u/s. 271(1)(c) in connection to Order passed u/s. 143(3)	13/3/2019
Notice served to the assessee by JCIT Circle 4(1)(2) post Transfer of Case	19/6/2019
Assessee's response and submission to show-cause notice	25/6/2019
Penalty order issued by JCIT Circle 4(1)(2)	27/6/2019

4.11 However, the Ld.JCIT, based on the fact that the Assessee had not made **suo-moto submission** regarding non-eligibility of brought forward loss either in its Return of Income or before the Assessing Officer as well as on the ground that assessee was not eligible to claim brought forward losses and accordingly furnished inaccurate particulars of Income during the Assessment proceedings had levied minimum penalty of Rs. 1,78,30,779/- vide Penalty Order passed U/s 271(1)(c) dated 27/06/2019.

4.12 Being aggrieved by the aforesaid Penalty Order passed 271(1)(c), the Assessee filed an Appeal before the Learned CIT(A). The Learned CIT(A) deleted the penalty with the following observations-

“It is fact on record that this disallowance has arisen owing/consequent to the passing of Order dated 10.05.2018 by the Ld. AO giving effect to the MAP Resolution in assessee's case for AY 2012-13 which resulted in change in the loss carried forward for set-off in the subsequent years including present year i.e. AY 2016-17.

The facts that the original return for year under consideration was filed on 30.11.2016 and revised return was filed by the assessee on 25.05.2017 are NOT in dispute. Hence, in other words, it is pertinent to note that the underlying addition/disallowance for levy of impugned penalty was not w.r.t. concealment of income or furnishing of inaccurate particulars of income at the time or filing of the return for the year under consideration. A chronology of events submitted by the appellant during the course of the present proceedings highlights the same, as depicted below-

<i>Particulars</i>	<i>Date</i>
<i>Original Return Filed</i>	<i>30/11/2016</i>
<i>Revised return filed by the Assessee by considering the reduced carry forward losses as per rectification order and MAI' order for AY 2009-10 and AY 2011-12</i>	<i>25/5/2017</i>
<i>Letter filed with jurisdictional AO informing about the revised return and furnishing the details of losses</i>	<i>26/06/2017</i>
<i>Date of the order giving effect for MAP order passed for AY 12-13</i>	<i>10/5/2018</i>
<i>Suo-moto payment of additional taxes by the Assessee based on order giving effect received for AY 12-13 [Note - Revised return not filed as the time elapsed for filing revised return]</i>	<i>30/5/2018</i>
<i>Date of Issue of Notice u/s 143(2) of the IT Act</i>	<i>16/8/2018</i>
<i>Date of Issue of Notice u/s 142(1) of the IT Act seeking certain information</i>	<i>30/9/2018 & 10/12/2018</i>
<i>Submission and disclosure of facts and details regarding revised return and payment of additional taxes along with revised computation</i>	<i>13/12/2018</i>
<i>Order u/s 143(3) of the IT Act passed by ITO Ward 4(1)(3) disallowing excess brought forward losses/unabsorbed depreciation, Demand Notice and Initiation of penalty u/s 271(1)(c)</i>	<i>17/12/2018</i>
<i>Rectification u/s 154 filed by the assessee with ITO for considering the additional taxes paid</i>	<i>20/12/2018</i>
<i>Rectification order u/s 154 by the ITO Ward 4(1)(3) granting credit of additional taxes paid</i>	<i>13/3/2019</i>

It is also the Contention of the assessee-appellant that the subject order giving effect to the MAP Resolution for AY 2012-13 was passed by the Ld. AO in its case on 10.05.2018 and by then the statutory time limit for filing the revised return for the year under consideration i.e. AY 2016-17 had already expired. In support of its claim that such contention is a bonafide-contention the assessee-appellant had submitted that in its own case on receipt of rectification and MAP Resolution Effect giving orders for AY 2009-10, it had voluntarily revised the return of income for giving effect to consequential change in quantum of carried forward loss in the year under consideration i.e. AY 2016-

17 on 25.05.2017. This submission of the assessee-appellant has NOT been denied by the Ld. AO.

In addition to this, it is the contention of the assessee that though the time limit for the year under consideration to file the revised return had already expired as on 10.05.2018 (date of Order passed giving effect to the MAP Resolution i.r.o AY 2012-13 (supra)), the assessee on its own worked out the revised total income based on consequential effect of the Order passed on 10.05.2018 for the year under consideration and voluntarily paid the corresponding taxes on 30.05.2018. The assessee had also attached the copy of corresponding challan. The fact of payment of such taxes by the assessee on 30.05.2018 as claimed by it is also NOT in dispute.

Finally, to emphasize and bring forth its point that it had made payment of such resultant additional tax on its own volition (voluntarily) on 30.05.2018, it has been highlighted by the assessee-appellant that as on the date of suo-motu payment of resultant additional tax i.e. 30.05.2018 its case was also NOT selected for scrutiny. This claim of the assessee-appellant is also forthcoming from the details available on record which undoubtedly indicate that the instant case was selected for scrutiny by issuance of notice dated 16.08.2018 u/s 143(2) of the Act.

In the light of such undeniable facts available on record the observation of the Ld. AO that had the issue not been verified it would have resulted in issuance of refund of taxes paid by the assessee is not forthcoming from the available records. This can be understood in another way also, as explained. The claim of the assessee-appellant that it had worked out the resultant change in total income for the year under consideration subsequent to passing of Order dated 10.05.2018 and voluntarily paid resultant additional tax on 30.05.2018 within 20 days of 10.05.2018 is NOT in dispute. For a second, in such scenario, if it is assumed that had the case of the assessee-appellant not been selected for scrutiny for the year under consideration then it needs, to be appreciated that there was no medium available to the assessee-appellant to make any such claim of refund as has been observed by the Ld.AO.

In view of the above and considering the totality of peculiar facts and circumstances of the matter, the observations of the Ld.AO that the contentions of the assessee-appellant

lack bonafide fail to qualify to be held correct, hence the resultant levy of impugned penalty cannot be sustained. Accordingly, the Ld. AO is directed to delete the subject penalty levied vide impugned order. Accordingly, the corresponding grounds are ALLOWED.”

4.13 Aggrieved with the order of the Ld.CIT(A), the Revenue has filed the present appeal before this *Tribunal*.

5. The Ld.AR of the assessee has also filed a paper book comprising 457 pages enclosing therein the copies of documents/evidences submitted before the Authorities below.

6. Before us, the Ld. DR vehemently argued that had the assessing officer not issued the notice u/s. 142(1) of the IT Act dated 10.12.2018, the assessee could not have admitted the set off of brought forward losses at Rs.4,91,78,071/- and would have got the refund.

7. Further, the Ld. DR submits that non-reporting of the revised entitlement of set off of brought forward losses in consequent to order giving effect to MAP resolution by the assessee suo-moto amounts to furnishing inaccurate particulars of income.

8. The Ld.AR on the other hand, supported the order of the Ld.CIT(A) /NFAC and submitted that the Assessee has acted in a bonafide manner and had voluntarily disclosed all the relevant facts and also paid the additional taxes suo-motto on revised computation after the order giving effect of the MAP resolution was received by the Assessee. The Assessee paid the taxes voluntarily

even much before the return was picked up for the scrutiny i.e. within 20 days of MAP Order giving effect for Asst. Year 2012-13 received.

9. We have heard the rival submissions and perused the material on record.

10. The summarised facts of the case is that the Assessee Company after filing the return of income for the Asst. year 2016-17 on **30/11/2016** declaring total Income of Rs. 81,53,230/- filed the Revised Return of Income on **25/05/2017** declaring total income of Rs.4,87,96,230/- for the Asst. year 2016-17 due to the fact that there was a change in the Losses carried forward for set off in subsequent years as the Assessee Company was in receipt of Rectification Order and MAP Orders for Asst. year 2009-10 and Asst. year 2011-12 in the month of December, 2016.

Again after the receipt of the one more Order giving effect (OGE) to MAP Order for the Asst. year 2012-13 on **10/05/2018**, the Assessee Company again prepared the revised computations from the Asst. year 2013-14 to Asst. year 2016-17 and paid the additional Tax liability of **Rs.96,39,172/-** for the Asst. year 2016-17 voluntarily on **30/05/2018** but could not file the revised return of Income again as the time limit for filing the revised return for the Asst. year 2016-17 was barred by time on **31/03/2018** & whereas the Order giving effect to MAP Order was received only on **10/05/2018**.

11. At this juncture it is worthwhile here to mention that Mutual Agreement Procedure (MAP) is meant for resolving the disputes usually arising on account of double taxation or taxation that violates the trade agreement between the two countries.

12. Further the Revised Return filed on 25/05/2017 for the Asst. year 2016-17 for incorporating the rectification Order & MAP Orders for the Asst. year 2009-10 and Asst. year 2011-12 was selected for the Scrutiny Assessment under CASS and the due notice U/s 143(2) was issued to the Assessee Company on 16/08/2018.

13. In response to the Notices issued U/s 142(1) the Assessee Company filed submissions on 13/12/2018 along with the revised Computation on carry forward of losses due to the OGE of MAP order for the Asst. year 2012-13 and Copy of the taxes already paid voluntarily on 30/05/2018 amounting to **Rs.96,39,172/-**

14. The Learned Assessing Officer after considering the submissions & explanations but without considering the tax paid voluntarily by the Assessee on 30/05/2018 passed an Order U/s 143(3) of the I Tax Act, 1961 on **17/12/2018** making additions of Rs.5,24,58,897/- by way of disallowance of excess brought forward losses/unabsorbed depreciation claimed which was on account of the adjustment due to the Order Giving Effect(OGE) of the MAP Order received by the Assessee Company on 10/05/2018 by which the statutory time limit to file the revised return was already barred by time.

15. Based on the above additions of Rs.5,24,58,897/- by way of disallowance of excess brought forward losses/unabsorbed depreciation, the Assessing officer initiated the penalty proceedings U/s 271(1)(c) of the I. Tax Act, 1961 for furnishing inaccurate particulars of Income on or before the completion of the Assessment Proceedings.

16. Further, The Learned JCIT, Circle 4(1)(2), Bangalore based on the fact that the Assessee had not made **suo-moto submission** regarding non-eligibility of brought forward loss either in its Return of Income or before the Assessing Officer as well as on the ground that assessee was not eligible to claim brought forward losses and accordingly furnished inaccurate particulars of Income during the Assessment proceedings had levied minimum penalty of Rs. 1,78,30,779/- vide Penalty Order passed U/s 271(1)(c) dated 27/06/2019.

17. In the above factual matrix of the case, we deem it fit to decide the moot question that under the facts & circumstances of the case **whether the Assessee had furnished inaccurate particulars of his Income specially when the Order giving effect (OGE) to MAP Order for the Asst. year 2012-13 was received by the Assessee after the date of filing the revised return for the Asst. year 2016-17 was barred by time and thereafter the Assessee had voluntarily paid the additional Tax liability of Rs.96,39,172/- for the Asst. year 2016-17 even before the issuance of Notice for Assessment Proceedings.**

18. The relevant provisions of the I. Tax Act, 1961 are as under-

271- Failure to furnish returns, comply with notices, concealment of Income, etc.

(1) If the [Assessing] Officer or the [Commissioner (Appeals)] [or the [Principal Commissioner or] Commissioner] in the course of any proceedings under this Act, is satisfied that any person-

(c) has concealed the particulars of his Income or furnished inaccurate particulars of such Income.

19. In the present case the Assessing officer had levied the penalty under the limb of "Inaccurate particulars of Income". Now we take into the consideration the first ground of Appeal raised by the Revenue that had the Assessing Officer not issued the notice U/s 142(1) dated 10/12/2018, the assessee would not have admitted the set off of brought forward losses at Rs.4,91,78,071/- and would have got the Refund.

20. Before us the AR of the Assessee drew our kind attention on page No. 72 of the paper book where we find that the Challan of Rs.96,39,172/- (I. Tax of Rs.76,50,072/- & Interest of Rs.19,89,100/-) was paid on **30/05/2018** under the Minor Head code 400. This additional tax liability along with the Interest were paid by the Assessee Company suo motto after the preparation of revised computation from Asst. Year 2013-14 to Asst. Year 2016-17 on receipt of the Order giving effect (OGE) to MAP order for the Asst. Year 2012-13 on 10/05/2018. Further we find that the first Notice of Assessment U/s 143(2) of the I Tax Act, 1961 for the Asst. Year 2016-17 was served on the Assessee only on 16/08/2018.

The argument of the AR of the Assessee that there was no mensrea to deprive the legitimate dues of the Government as the Assessee company had earlier revised the return for the Asst. Year 2016-17 on 25/05/2017 suo motto due to the change in position of carry forward losses affected by rectification order & MAP order received for the Asst. Year 2009-10 & 2011-12 and the Assessee Company again had the intension of filing the revised return on receipt of Order giving effect(OGE) of MAP Order for the Asst. Year 2012-13 on 10/05/2018 but could not file the Revise return again as the time limit for filing revised return U/s 139(5) of the I. Tax Act, 1961 had already lapsed on 31/03/2018 seems to be bonafide & justifiable. Under the above mentioned reason we hold that as the Assessee Company had paid the additional Taxes along with the Interest suo motto amounting to Rs. Rs.96,39,172/- on 30/05/2018 itself i.e. way before the issuing first notice U/s 143(2) of Assessment hearing , the plea of the revenue that had the Assessing Officer not issued the notice U/s 142(1) dated 10/12/2018 the assessee would not have admitted the set off of brought forward losses at Rs.4,91,78,071/- is not at all tenable. Further with regard to the claim of the revenue that had the Assessing Officer not issued the Notice U/s 142(1) dated 10/12/2018 the Assessee would have got the Refund is also not tenable as the Assessee Company had already paid the additional taxes along with the Interest suo motto on 30/05/2018 under minor head "Tax on Regular Assessment (400)" after the preparation of revised computation way before the issuance of Notice U/s 143(2) for the Asst year 2016-17. The Assessing Officer

did not bring any material on record that the explanation given was not bonafide.

21. We are in complete agreement with the Learned CIT(Appeals) that the original return for year under consideration was filed on 30/11/2016 & the revised return was filed on 25/05/2017 which are not in dispute & therefore the underlying additions/disallowance for levy of impugned penalty was not w.r.t concealment of Income or furnishing of inaccurate particulars of income at the time of filing the return of income for the year under consideration. Further we are also in agreement with the Learned CIT(A) that had the case of the Assessee appellant not been selected for scrutiny for the year under consideration then it needs to be appreciated that there was no medium available to the assessee-appellant to make any such claim of refund as has been observed by the Ld.AO & Therefore the Ground No. 1 of the Revenue is unsustainable and accordingly stands dismissed.

22. Now we take into the consideration the Second ground of Appeal raised by the Revenue that non reporting of revised entitlement of set off of brought forward losses in consequent to order giving effect (OGE) to MAP resolution by Assessee suo-motto amounts to furnishing inaccurate particulars of Income.

23. We are of the opinion that everything would depend upon the **Return of Income filed** because that is the only document where the assessee **can furnish** the particulars of its Income. When such particulars are found to be inaccurate, the liability would arise. As

stated earlier the Original Return were filed for the A.Y 2016-17 on 30.11.2016 declaring total income of Rs.81,53,230/-. Subsequently, the Assessee filed its revised return of income on 25.05.2017 declaring total income of Rs.4,87,96,230/- on receipt of Rectification order and MAP Orders for AY 2009-10 and AY 2011-12 in the month of December 2016 as there was a change in the income tax loss carried forward for set off in subsequent years. Again after the receipt of the one more Order giving effect (OGE) to MAP Order for the Asst. year 2012-13 on **10/05/2018**, the Assessee Company again prepared the revised computations from the Asst. year 2013-14 to Asst. year 2016-17 and paid the additional Tax liability of **Rs.96,39,172/-** for the Asst. year 2016-17 voluntarily on **30/05/2018** but could not filed the revised return of Income again as the time limit for filing the revised return for the Asst. year 2016-17 was barred by time on **31/03/2018** & whereas the Order giving effect to MAP Order was received only on **10/05/2018**. Thus it is a fact on record that the disallowance has arisen owing/consequent to the passing of the Order dated 10/05/2018 by the Ld. AO giving effect to the MAP Resolution in Assessee's case for Asst. Year 2012-13 which resulted in change in the loss carried forward for set off in the subsequent years including the Present Asst. Year 2016-17. Therefore we are of the opinion that the underlying additions/disallowances for levy of impugned penalty was not with respect to furnishing inaccurate particulars of income at the time of filing of the return for the year under consideration. It goes without saying that for applicability of section 271(1)(c), the

conditions u/s 271(1)(c) must exist before the penalty is imposed. Therefore this ground of the Revenue also fails.

24. In our Opinion In the present case merely because the Assessment Order was passed on the basis of Addition/Disallowances & the Assessee agreed to the Addition & already paid the Taxes along with the Interest way before the initiation of the Assessment Proceedings , it could not be inferred that the Assessee has furnished inaccurate particulars of Income. Moreover the Assessee Company had offered an explanation. The explanation was also not found to be false. On the contrary it was held to be bona fide. Therefore the Assessing Officer can't resort to the levy of Penalty U/s 271(1)(c).

In view of the above we do not find any infirmity in the decision taken by the Ld. CIT(A) in deleting the penalty levied U/s 271(1)(c) of the I. Tax Act, 1961. Accordingly we confirm his Order.

In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 29th May, 2024.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(KESHAV DUBEY)
Judicial Member

Bangalore,
Dated, the 29th May, 2024.
/MS /

Copy to:

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|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore