

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad 'SMC' Bench, Hyderabad**

**Before Shri Manjunatha, G. Accountant Member**

आ.अपी.सं / **ITA No.805/Hyd/2024**  
(निर्धारण वर्ष / Assessment Year: 2016-17)

Smt.Chandu Vijayalakshmi Hyderabad PAN:AFLPC2369E (Appellant)	Vs.	Income Tax Officer Ward 11(1) Hyderabad (Respondent)
निर्धारिती द्वारा/Assessee by: N O N E		
राजस्व द्वारा/Revenue by:: Shri Aluru Venkata Rao, DR		
सुनवाई की तारीख/Date of hearing: 17/09/2024		
घोषणा की तारीख/Pronouncement: 17/09/2024		

**आदेश/ORDER**

This appeal filed by the assessee is directed against the order dated 25/06/2024 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2016-17.

2. The brief facts of the case are that the assessee filed her return of income for the A.Y 2016-17 on 21/08/2017 admitting income of Rs.5,34,350/-. The case was selected for scrutiny to verify large cash deposits made into bank account. During the course of assesment proceedings, the Assessing Officer noticed that the assessee has deposited sum of

Rs.41,10,000/- in her bank account. The Assessing Officer called upon the assessee to explain the source for cash deposit. In response, the assessee submitted that the source for cash deposit is out of current year income and out of opening cash balance. The Assessing Officer after considering the relevant explanation of the assessee made addition of Rs. 25,30,527/- to the returned income.

3. Thereafter, proceedings u/s 271(1)(c) of the I.T. Act, 1961 was initiated and called upon the assessee to explain as to why penalty u/s 271(1)(c) shall not be levied. In response, the assessee submitted that, she has neither concealed particulars of income, nor furnished inaccurate particulars of income and source for cash deposits is also explained out of known source of income. Therefore, provisions of section 271(1)(c) of the I.T. Act, 1961 cannot be invoked. The Assessing Officer after considering the relevant submission of the assessee and also taken note of provisions of section 271(1)(c), levied minimum penalty of Rs.7,81,933/- u/s 271(1)(c) of the act for concealing particulars of income and also furnishing inaccurate particulars of income.

4. Being aggrieved, the assessee preferred an appeal before the learned CIT (A). Before the learned CIT (A), the assessee challenged the penalty levied by the Assessing Officer u/s 271(1)(c) in light of show-cause notice issued by the Assessing Officer u/s 274 r.w.s. 271(1)(c) of the I.T. Act, 1961 and argued

that in absence of specific charge under which penalty is proposed, whether it is for concealment of particulars of income or furnishing inaccurate particulars of income, levying penalty under both limbs is void ab initio and liable to be quashed. The learned CIT (A) after considering the relevant submissions of the assessee and also taking note of certain judicial precedents, rejected the objections raised by the assessee and sustained the penalty levied u/s 271(1)(c) of the I.T. Act, 1961.

5. Aggrieved by the order of the learned CIT (A), the assessee is in appeal before the Tribunal.

6. None appeared on behalf of the assessee. I have heard the learned DR and perused the material available on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that the Assessing Officer has not arrived at a satisfaction in the assessment proceedings before initiating penalty proceedings u/s 271(1)(c) of the I.T. Act, 1961, whether it is for concealment of particulars of income or furnishing of inaccurate particulars of income which is evident from the assessment order dated 27/12/2018 passed u/s 143(3) of the Act, where the Assessing Officer simply stated that the penalty proceedings u/s 271(1)(c) are initiated separately. Further, even while issuing show cause notice u/s 274 r.w.s. 271(1)(c) of the Act, there is a failure on the part of the Assessing Officer to arrive at a satisfaction, whether he is proposed to levy penalty for

concealment of particulars of income or furnishing inaccurate particulars of income. However, the Assessing Officer has finally levied penalty u/s 271(1)(c) of the Act, on both limbs i.e. for concealment of particulars of income and also for furnishing inaccurate particulars of income. In my considered view, the Assessing Officer before initiating penalty proceedings u/s 271(1)(c) of the Act, shall arrive at a clear satisfaction either in assesment proceedings or in the show-cause notice issued u/s 274 r.w.s.271(1)(c) of the I.T. Act, 1961 that under which limb penalty u/s 271(1)(c) of the Act, is initiated. Since the Assessing Officer has initiated penalty proceedings on the basis of invalid satisfaction and also vague notice, in my considered view, the whole penalty proceedings become vitiated and liable to be quashed. This legal principle is supported by the decision of the Hon'ble Karnataka High Court in the case of CIT vs. Manjunatha Cotton & Ginning Factory, reported in (2013) 359 ITR 565. This legal principle is further fortified by the decision of the Hon'ble Supreme Court in the case of CIT vs. SSA Emerald Meadows reported in (2016) 73 Taxmann.com 241 where the Hon'ble Supreme Court has upheld the ratio laid down by the Hon'ble Karnataka High Court in the case of CIT vs. Manjunatha Cotton & Ginning Factory (Supra). From the ratios laid down by above two cases, it is undisputedly clear that the penalty levied u/s 271(1)(c) of the Act, on the basis of vague notice and incorrect satisfaction cannot be sustained. Therefore, I am of the considered view, that the penalty levied by the Assessing Officer u/s 271(1)(c) on the

basis of incorrect or invalid satisfaction and also vague show-cause notice is void, ab initio and liable to be quashed. The learned CIT (A) without appreciating relevant facts simply sustained the penalty levied by the Assessing Officer. Thus, I set aside the order passed by the learned CIT (A) and direct the Assessing Officer to delete the penalty levied u/s 271(1)(c) of the I.T. Act, 1961.

7. In the result, appeal filed by the assessee is allowed.

Order pronounced in the Open Court on 17<sup>th</sup> September, 2024.

Sd/-

**(MANJUNATHA, G.)  
ACCOUNTANT MEMBER**

Hyderabad, dated 17<sup>th</sup> September, 2024.

***Vinodan/sps***

Copy to:

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2	Income Tax Officer 11 (1) Signature Towers, Kondapur, Hyderabad 500084
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*