

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"F" BENCH, MUMBAI**

**BEFORE MS. PADMAVATHY S, ACCOUNTANT MEMBER AND**  
**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA no.3634/Mum./2024**  
(Assessment Year : 1999-2000)

**Virendrakumar Brijratan Mohatta**

4<sup>th</sup> Floor Ratnakar, Narayan Dabholkar Road,  
Malabar Hill, Mumbai- 400006  
PAN-ACJPM9319D

..... Appellant

v/s

**JCIT- 19(2)**

207, 2<sup>nd</sup> Floor, Matru Mandir,  
Tardeo Road, Mumbai- 400007

..... Respondent

Assessee by : Shri Ravikanth Pathak  
Revenue by : Shri Surendra Meena, Sr. DR

Date of Hearing – 28/08/2024

Date of Order – 29/08/2024

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The present appeal has been filed by the assessee challenging the impugned order dated 31/05/2024 passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [*"learned CIT(A)"*], which in turn arose from the penalty order passed under section 271(1)(c) of the Act, for the assessment year 1999-00.

2. In this appeal, the assessee has raised the following grounds: -

1. *The Hon'ble Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (hereinafter referred as "Hon'ble CIT(A), NFAC") erred in*

*passing the order confirming the penalty levied u/s 271(1)(c) of the Income Tax Act, 1961 ("Act") by AO without appreciating that appeal against the order passed u/s 143(3) r.w.s. 147 of the Act is pending for disposal.*

*2. The Hon'ble CIT(A) erred in confirming the action of the AO in levying of penalty of Rs. 21,79,000/- u/s 271(1)(c) of the Act by holding that the Appellant has concealed the particulars of income.*

*The Appellant submits that he has not concealed particulars of any income justifying the levy of penalty u/s 271(1)(c) of the Act; hence, the penalty levied by the AO and confirmed by the CIT(A) shall be deleted.*

3. We have considered the submissions of both sides and perused the material available on record. The brief facts of the case are that the assessee is an individual having a source of income from business, other sources and capital gain. For the year under consideration, the assessee filed his return of income on 20/09/1999 declaring a total income of Rs.970. Thereafter, proceedings under section 147 of the Act were initiated and vide order dated 23/01/2015 passed under section 143(3) r/w section 147 of the Act, the AO made an addition of Rs.73,50,000 under section 69A of the Act being undisclosed income of the assessee from an undisclosed bank account in HSBC Bank, Geneva, Switzerland. In the meanwhile, notice under section 274 r/w section 271(1)(c) of the Act was issued on 23/01/2015 and served on the assessee. Vide order dated 27/07/2015 passed under section 271(1)(c) of the Act, the AO concluded that by not disclosing the foreign bank account in HSBC Bank, Geneva, there is a conscious and deliberate attempt on the part of the assessee to conceal his income, thereby suppressing his total income by Rs.73,50,000. Accordingly, the AO levied a penalty of Rs.21,79,000 under section 271(1)(c) of the Act.

4. It is evident from the record that during the pendency of penalty proceedings, the assessee filed a quantum appeal before the learned CIT(A)

against the additions made vide assessment order passed under section 143(3) r/w section 147 of the Act. Upon enquiry during the hearing, the learned Authorised Representative submitted that the quantum appeal is still pending before the learned CIT(A), however, the assessee's appeal against the penalty order has been dismissed by the learned CIT(A).

5. In view of the facts and circumstances as noted above, we deem it appropriate to restore the present appeal to the file of the learned CIT(A) with a direction to decide it afresh after it decides the quantum appeal filed by the assessee, as the penalty is consequential to the additions made in quantum proceedings. Accordingly, the impugned order is set aside and the grounds raised by the assessee are allowed for statistical purposes.

6. In the result, the appeal by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 29/08/2024

**Sd/-  
PADMAVATHY S  
ACCOUNTANT MEMBER**

**Sd/-  
SANDEEP SINGH KARHAIL  
JUDICIAL MEMBER**

**MUMBAI, DATED: 29/08/2024**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar  
ITAT, Mumbai