

**IN THE INCOME-TAX APPELLATE TRIBUNAL “B” BENCH,  
MUMBAI**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER  
&  
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 5406/MUM/2024  
(A.Y. 2014-15)**

**ITA No. 5407/MUM/2024  
(A.Y. 2015-16)**

**ITA No. 5408/MUM/2024  
(A.Y. 2016-17)**

**ITA No. 5409/MUM/2024  
(A.Y. 2017-18)**

Milan (Industrial) Premises Co-Op Society Limited 4 <sup>th</sup> Floor Milan Industrial Estate, Abhudya Nagar Cotton Green, Mumbai-400033	v/s. बनाम	DCIT-20(1), Mumbai Room No. 113, 1 <sup>st</sup> Floor, Piramal Chamber, Lalbaug, Parel, Mumbai-400012
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAAAM9808Q</b>		
<b>Appellant/अपीलार्थी</b>	<b>..</b>	<b>Respondent/प्रतिवादी</b>

Appellant by :	Shri Ketan Demani
Respondent by :	Ms. Sujatha Iyengar

Date of Hearing	21.11.2024
Date of Pronouncement	29.11.2024

**आदेश / O R D E R**

**PER RENU JAUHRI [A.M.]:-**

These appeals have been filed by the assessee against the order of the Learned Commissioner of Income-tax (Appeals), Mumbai/National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] dated 22.08.2024 in respect of penalty-imposed u/s 271(1)(c)/ 270A of the Income-tax Act, 1961

[hereinafter referred to as “Act”] for Assessment Years [A.Y.] 2014-15, 2015-16, 2016-17 & 2017-18 respectively.

2. The assessee has raised following grounds of appeal:

**AY 2014-15**

1. The order passed u/s 271(1)(c) of the Act dated 22.09.2022 by the Ld. AO is bad in law.
2. The Ld. CIT(A), NFAC, erred in confirming the action of the Ld. AO in levying penalty u/s 271(1)(c) of the Act of Rs.9,36,584/-.
3. The notice u/s 274 r.w.s. 271(1)(c) of the Act is bad in law.”

**AY 2015-16**

1. The order passed u/s 271(1)(c) of the Act dated 22.09.2022 by the Ld. AO is bad in law.
2. The Ld. CIT(A), NFAC, erred in confirming the action of the Ld. AO in levying penalty u/s 271(1)(c) of the Act of Rs.7,59,265/-.
3. The notice u/s 274 r.w.s. 271(1)(c) of the Act is bad in law.”

**AY 2016-17**

1. The order passed u/s 271(1)(c) of the Act dated 21.09.2022 by the Ld. AO is bad in law.
2. The Ld. CIT(A), NFAC, erred in confirming the action of the Ld. AO levying penalty u/s 271(1)(c) of the Act of Rs.7,99,816/-.
3. The notice u/s 274 r.w.s. 271(1)(c) of the Act is bad in law.”

**AY 2017-18**

1. The order passed u/s 270A of the Act dated 21.09.2022 by the Ld. AO is bad in law.
2. The Ld. CIT(A), NFAC, erred in confirming the action of the Ld. AO in levying penalty u/s 270A of the Act of Rs. 33,28,388/-.
3. The notice u/s 274 r.w.s. 270A of the Act is bad in law.”

3. These appeals are being disposed off through a common order. As the facts are similar, we are taking up AY 2014-15 as a lead case for detailed discussions.

4. The brief facts of the case are that the assessee is an industrial premises cooperative society and had been filing its return since more than 10 years. However, for AY 2014-15, no return was filed by the assessee by the due date.



On the basis of information available on the portal of the I.T. Department, it was found from the individual transaction statement for AY 2013-14 that the assessee had received rental income of Rs. 18,16,521/- as well as interest income during the year. Since no return had been filed as per the provision of section 139(4)(c), a notice u/s 148 was issued to the assessee on 25.03.2021. In response to the said notice, the assessee filed its return declaring income of Rs. 56,31,930/- on 27.05.2021. The assessment was completed on returned income vide order u/s 143(3) r.w.s 147 dated 24.03.2022. Penalty proceedings were also initiated u/s 271(1)(c) of the Act on the ground that the assessee had concealed its income as it did not file its return till the time notice u/s 148 was issued. Subsequently, penalty u/s 271(1)(c) was imposed vide order dated 22.09.2022. During the course of penalty proceedings, the assessee had submitted that there was a dispute between the new committee members and old committee members which continued for a number of years and the issue got finally settled only in 2019 by the order of the Hon'ble High Court in the matter. Accordingly, the assessee could not file its return of income for all these years. However, Ld. AO did not accept the assessee's explanation and invoked Explanation 3 of section 271(1)(c) to hold that it is a fit case for imposition of penalty u/s 271(1)(c) of the Act.

5. In appeal, Ld. CIT(A) observed that the penalty had been rightly levied by the Ld. AO, as the assessee had deliberately not filed its return of income within



the prescribed time mentioned u/s 139(4)(c). He, therefore, observed that but for the notice issued u/s 148 that income would have escaped assessment, hence it was fit case for imposition of the penalty.

6. Aggrieved with the said order of the Ld. CIT(A), the assessee has filed an appeal before us. During the course of hearing, Ld. AR has argued that there was a reasonable cause for non-filing of returns and therefore penalties should not have been levied considering the peculiar facts and circumstances of the case. Ld. AR has further submitted a chronological chart regarding the dispute between the old committee members and the new committee members due to which it was not possible to file return for AY 2014-15 as well as for subsequent years. As per the documents submitted before us, during AGM held on 06.07.2013 the old committee members were asked to step down and a letter was sent to Assistant Registrar, Cooperative Societies, F/s ward, Mumbai intimating that the old committee members were not cooperating in handing over charge of society to the new committee. The dispute continued till the matter was finally decided by the Hon'ble Bombay High Court vide order dated 11.11.2019 whereby the writ petition filed by the new committee members was allowed and orders of the Assistant Registrar dated 20.02.2018 and 30.05.2019 as well as of the Divisional Registrar dated 21.02.2019 were quashed. Subsequently, the society initiated procedure for release of the frozen bank accounts as well as seal of office and documents. Copies of letters dated



18.01.2021 and 30.07.2021 addressed to Assistant Registrar, Cooperative Societies, in this regard, have also been filed. Finally vide letter dated 29.03.2022, seal of the office was released and possession was handed back to the society committee members.

7. In view of the above, we are of the opinion that the assessee has successfully demonstrated reasonable cause for non-filing of returns during this period. We, therefore, hold that these being a reasonable cause for non-filing of returns, the penalty for concealment of income on this account is not justified.

8. Since, facts and circumstances for AYs 2015-16, 2016-17 & 2017-18 are exactly identical except for the change in quantum of penalty levied, therefore, the order for AY 2014-15 will apply to all these years mutatis mutandis.

9. Accordingly, penalties levied u/s 271(1)(c) for AY 2014-15 (Rs. 9,36,584/-), AY 2015-16 (Rs. 7,59,265/-), AY 2016-17 (Rs. 7,99,816/-) and u/s 270A for AY 2017-18 (Rs. 33,28,388/-) are hereby deleted.

Order pronounced in the open court on 29.11.2024.

**Sd/-**

**BEENA PILLAI**

(न्यायिक सदस्य/JUDICIAL MEMBER)

**Sd/-**

**RENU JAUHRI**

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai



दिनांक /Date 29.11.2024

अनिकेत सिंह राजपूत/ स्टेनो

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

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

सत्यापित प्रति //True Copy//  
आदेशानुसार/ BY ORDER,

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

