

**IN THE INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH, AGRA**

**Before Sh. Satbeer Singh Godara, Judicial Member
&
Sh. M. Balaganesh, Accountant Member**

ITA No. 236/Agr./2018 : Asstt. Year: 2010-11

M/s Modern Agencies, Jhokan Bagh, Jhansi, U.P.	Vs	DCIT, Circle-2(3)(1), Jhansi, U.P.
(APPELLANT)		(RESPONDENT)
PAN No. AAJFM6844K		

**Assessee by : Sh. Rakesh Aggarwal, CA
Revenue by : Sh. Shailener Shrivastava, Sr. DR**

Date of Hearing: 06.02.2025	Date of Pronouncement: 06.02.2025
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ORDER

Per Satbeer Singh Godara, Judicial Member:

This assessee's appeal for Assessment Year 2010-11, arises against the CIT(A)-2, Agra's case No. 46/CIT(A)-2/Agra/DCIT-2(3)(1)/Jhansi/2016-17 dated 30.11.2017, in proceedings u/s 271(1)(c) of the Income Tax Act, 1961 (in short "the Act").

2. Hear both the parties at length. Case file perused.
3. It emerges at the outset during the course of hearing that both the learned lower authorities have held the assessee to have furnished its inaccurate particulars of income to levy section 271(1)(c) penalty in question amounting to 10,00,000/-

vide Assessing Officer's order dated 26.03.2013 which stands upheld in the CIT(A)'s detailed discussion.

4. The assessee has first of all sought to raise the additional ground(s) that once the learned Assessing Officer had admittedly issued his penalty show-cause notice u/s 271(1)(c) r.w.s. 274 of the Act not specifying any specific limb thereunder, his failure to this effect vitiates the entire proceedings. The Revenue on the other hand has vehemently objected to admission of the assessee's instant additional ground at this belated stage. We are of the considered view that hon'ble apex court landmark decision in National Thermal Power Co. Ltd. vs. CIT (1998) 229 ITR 383 (SC) has settled the issue long back in assessee's favour and against the department that the tribunal could very well entertain such an additional ground to determine correct tax liability provided all the relevant facts form part of the record. We make it clear that the Revenue has nowhere disputed the contents of the learned Assessing Officer's show-cause notice dated 26.03.2013 herein.

5. Faced with this situation, we admit the assessee's instant additional ground and quote PCIT Vs. Sahara India Life Insurance Co. Ltd. (2021) 432 ITR 84 (Del.) and PCIT Vs. Gopal Kumar Goyal (2023) 153 taxmann.com 534 (Del.) to conclude

that once the learned Assessing Officer has not specified the corresponding limb in his penalty show-cause notice forming part of the case records, his failure to this clinching effect indeed vitiates the penalty proceedings itself. We order accordingly.

6. All other pleadings in merit in the assessee's instant appeal stand rendered academic.

7. This assessee's appeal is allowed.

Order Pronounced in the Open Court on 06/02/2025.

Sd/-
(M. Balaganesh)
Accountant Member

Sd/-
(Satbeer Singh Godara)
Judicial Member

Dated: 06/02/2025

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR