# आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
# IN THE INCOME TAX APPELLATE TRIBUNAL
# INDORE BENCH, INDORE

**BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER**
**AND**
**SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**

ITA No. 709/Ind/2024 (AY: 2015-16)
ITA No. 710/Ind/2024 (AY: 2015-16)

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| M/s Goutam Medicose,<br>140, MG Road,<br>Dhar<br>**(PAN: AAGFG0285R)** | **बनाम/**<br>Vs. | ITO,<br>Dhar |
| (Assessee/Appellant) | | (Revenue/Respondent) |

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| Assessee by | Shri Arvind Sanghvi, CA & AR |
| Revenue by | Shri Ashish Porwal, Sr.DR |

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| Date of Hearing | 10.02.2025 |
| Date of Pronouncement | 21.02.2025 |

## आदेश / O R D E R

## Per Bench:

The captioned two appeals are filed by assessee. The details of appeals are as under:

(i) *I.T.A. No. 709/Ind/2024* is a quantum-appeal directed against order of first appeal dated 02.08.2024 passed by Commissioner of Income-tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 13.03.2023 passed by Assessment Unit of Income-tax Department ["AO"] u/s 147 r.w.s. 144 and 144B of the Income-tax Act, 1961 ["Act"] for Assessment-Year ["AY"] 2015-16.

(ii) *I.T.A. No. 710/Ind/2024* is a penalty-appeal directed against order of first appeal dated 02.08.2024 passed by same CIT(A) which in turn arises out of penalty-order dated 18.09.2023 passed by same AO u/s 271(1)(c) of the Act for same AY 2015-16.

2. The background facts leading to these appeals are such that the assessee is a partnership firm. For AY 2015-16 under consideration, the assessee did not file any return. The AO, on the basis of information available, found that the assessee has made a cash deposit of Rs. 2,08,81,600/- in an account with Central Bank of India during the previous year 2014-15 relevant to AY 2015-16. Accordingly, the AO framed a view that the income chargeable to tax has escaped assessment in the case of assessee and issued notice dated 30.03.2022 u/s 148 to assessee to open assessee's case u/s 147. The AO also issued subsequent notices u/s 142(1) from time to time, one such notice was also issued through speed-post, as per details mentioned in Para 2 of assessment-order. These notices remained uncompiled by assessee. Ultimately, the AO also issued show-cause notices u/s 144B with a proposal to make assessment u/s 144 with an addition of Rs. 2,08,81,600/- as unexplained income u/s 69A, these show-notices also remained un-complied. Finally, seeing the non-responsive attitude of assessee, the AO completed assessment to the best of his judgement vide assessment-order dated 13.03.2023 u/s 147 r.w.s. 144 assessing the cash deposits of Rs. 2,08,81,600/- as unexplained income u/s 69A r.w.s. 115BBE of the Act. Simultaneously, the AO also initiated

penalty proceeding u/s 271(1)(c) and ultimately imposed penalty of Rs. 70,97,656/- vide penalty-order dated 18.09.2023. Aggrieved by both orders i.e. assessment-order as well as penalty-order, the assessee filed two separate appeals before CIT(A) and contested but did not get any success. Now, the assessee has come in next appeals before ITAT.

3. Since these appeals are inter-related, they were heard together and are being disposed of by this common order for the sake of convenience, brevity and clarity.

***I.T.A. No. 709/Ind/2024:***

4. The grounds raised in this appeal are as under:

> *"1. That the order passed by Ld. CIT(A) u/s 250 on 02.08.2024 confirming the order passed by Ld. AO u/s 147 r.w.s 144B on 13.03.2023 is bad in law and bad on facts.*
>
> *2. On the facts and circumstances and in the law, the Ld. AO lacked jurisdiction to issue notices for reassessment and pass assessment order for an non-existing partnership firm which may please be held as bad in law and against the natural principal of justice and hence the Ld. CIT(A) is not justified in upholding such illegal action of Ld. AO.*
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> *3. On the facts and circumstances and in the law, that the application under rule 46A as additional evidences submitted before the Ld. CIT(A) but the CIT(A) has not considered and not adjudicated properly. The Ld. CIT (A) has not appreciating the fact that the cash so deposited has already been incorporated while offering income by the proprietor in his individual capacity and all these transactions are duly recorded in his audited books under PAN: AFYPJ3631F.*
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> *4. That, having regard to the facts and circumstances of the case, the Ld. Assessing officer has failed to appreciate that once an income has already been offered for taxation, the same cannot be taxed again and the impugned assessment order so passed has led to double taxation, and hence the Ld. CIT(A) is not justified in upholding such illegal action of Ld.AO.*

*5. That, having regard the facts and circumstances of the case, the Ld Assessing officer has erred on facts and in law in making an addition of Rs.2,08,81,600/- under section 69A on account of cash deposited in the bank. The Ld. AO has erred on facts and in law by not appreciating the fact that the cash so deposited has already been incorporated while offering income by the proprietor in his individual capacity and all these transactions are duly recorded in his audited books under PAN: AFYPJ3631F, hence the Ld. CIT(A) is not justified in upholding such illegal action of Ld. AO."*

Ground No. 1:

5. This ground is general; covered by other specific grounds and no separate submission is made by parties. Hence, no separate adjudication is required from us.

Ground No. 2:

6. This is a legal ground in which the assessee challenges the action of AO in issuing notice u/s 148 as well as passing assessment-order u/s 147 against the assessee.

7. Ld. AR for assessee submitted that the AO has issued notice u/s 148 and also passed assessment-order u/s 147 against/in the name of "M/s Goutam Medicose - PAN: AAGFG0285R" which was a partnership firm created on 01.04.1997 but already dissolved on 31.03.2007. Therefore, the assessee-firm was non-existent during the previous year 2014-15 relevant to AY 2015-16 under consideration as well as at the time of issuance of notice dated 30.03.2022 u/s 148 and passing of assessment-order dated 13.03.2023 u/s 147 r.w.s. 144 by AO. Ld. AR invited our attention to the copy of dissolution-deed executed on 01.04.2007 on stamp paper of Rs.

1,000/- dated 31.03.2007 filed at Pages 001 to 002 of Paper-Book to demonstrate the factum of dissolution of assessee-firm w.e.f. 01.04.2007. Thus, replying upon certain decisions, most relevant being (i) the decision of Hon'ble Jurisdictional High Court of M.P. in ***Jhansi Baran Pathways Pvt. Ltd. Vs. Office of ITO 2(1) Indore and others, Writ Petition No. 11190 of 2022, 13915 of 2023, 10676 of 2023***, and (ii) Hon'ble Supreme Court in ***PCIT Vs. Maruti Suzuki India Ltd. 2019 (7) TMI 1449***, Ld. AR argued that the notice u/s 148 issued as well as assessment-order u/s 147 passed against/in the name of assessee-firm, which was non-existent at the relevant time, is bad in law and legally not sustainable. Accordingly, Ld. AR prays to quash the entire assessment-proceeding done by AO including the order passed therein.

8. Per contra, Ld. DR made a strong opposition to the prayer of Ld. AR. He submitted that the AO had a very correct information that in the bank a/c containing PAN: AAGFG0285R of assessee-firm, there were total deposits of Rs. 2,08,81,600/- during the relevant previous year and that the assessee firm did not file any return to income-tax department for the relevant year. Therefore, the AO rightly framed a view of income escapement and issued notice u/s 148 after following proper procedure prescribed in law. Thereafter, the AO also issued several notices u/s 142(1) and show-cause notices u/s 144 to the assessee but none of those notices was complied by assessee. In such circumstance, the AO had no option except to pass ex-parte order u/s 144. Ld. DR submitted that the assessee-

firm has, at no stage prior to assessment or during assessment-proceeding, intimated to income-tax department/AO about its dissolution; in fact the assessee-firm is seriously negligent in responding to the statutory notices issued by AO. Therefore, Ld. DR strongly contended, the claim of assessee that the proceedings done by AO are bad, is meritless and liable to be rejected.

9. We have considered rival submissions of both sides and perused the case-record including the orders of lower-authorities. The undisputed facts, as pointed by Ld. DR for revenue which could not be controverted by Ld. AR for assessee, are such that (i) the AO undertook exercise of assessment u/s 147 on the basis of deposits having been made in a bank a/c held in the name and PAN of assessee-firm, and (ii) that the assessee never intimated the factum of its dissolution to the Income-tax Department/AO at any stage prior to resuming assessment-proceeding or even during assessment-proceeding. In fact, there are non-compliances to all statutory notices issued by AO u/s 148/142(1)/144. When it is so, there is no fallacy or invalidity in the notice issued by AO u/s 148 or the assessment-order passed by AO u/s 147 r.w.s. 144 against/in the name of assessee. On perusal of decisions quoted by Ld. AR, we find that those are the cases wherein the fact of non-existence of assessee was already in the knowledge of AO and yet the AO issued notice to non-existent assessee. Therefore, the Hon'ble courts have quashed the proceedings done by AO on non-existent entities.

10. In ***Jhansi Baran Pathways (supra)*** relied by Ld. AR, the Hon'ble Jurisdictional High Court decided a case where the assessing-authority issued a notice to the old company (amalgamating company) despite having knowledge of amalgamation. The relevant paras of order of Hon'ble High Court are re-produced below:

> *"4. Brief facts of the case are that, the petitioner Jhansi Baran Pathways Pvt. Ltd. (JBPPL) was the wholly owned subsidiary of Prakash Asphaltings and Toll Highways (India) Ltd. (PATH). For strategic and other purposes, it was decided to merge (JBPPL) and one Udaipur Pathways Pvt. Ltd. with (PATH). A consolidated scheme of merger (Annexure P/2) was prepared and the same was approved by the Regional Director, Ahmedabad in CP (CA) No. 26/2017 vide order No. RD (NWR)/233/(022)/2017/235 dated 17.04.2018 (Annexure P/1).* ***Prior to the approval, notice dated 31.01.2018 (Annexure P/3) inviting objections/suggestions to the amalgamation was also sent to the Income Tax Officer/Assistant Commissioner, Indore/respondent No.1, however, no objections were given by the respondent.*** *The scheme approved on 17.04.2018, was to take effect from 01.04.2017. Pursuant to the approval, the Registrar of Companies also issued fresh certificates of registration dated 17.04.2018 stating that (JBBPL) had been amalgamated into (PATH).*
>
> ***5. Despite being aware of the aforesaid fact, a show-cause notice dated 15.03.2022 under Section 148A was issued in the name of (JBPPL) seeking to reopen the assessment for (JBPPL) for the assessment year 2018-19 on the ground that the Assessing Officer had reasons to believe that the income chargeable to tax for the said assessment year 2018-19 has escaped assessment within the meaning of Section 147 of the Act.*** *It was stated that as per the information available with the IT department, (JBPPL) had engaged in certain transaction in the A.Y. 2018-19 and had not filed its income tax return for the same. Upon receipt of the show-cause notice, reply was submitted by the petitioner informing that since amalgamation had taken effect from 01.04.2017, all incomes and expenditures of (JBPPL) was recorded in the merged entity i.e. (PATH) and the same has been taxed in the merged entity. Copies of the relevant documents were also provided to the revenue authorities along with the reply. Even after filing reply, respondent No. 1 passed the order dated 31.03.2022 under Section 148A(d) of the Act, wherein inspite of acknowledging the fact that the (JBPPL) stood amalgamated with another entity, it was decided that, 'however, to verify whether transactions done on the PAN of the assessee were accounted for or not in the books of the Prakash Asphaltings and Toll Highways (India) Ltd., notice u/s 148 may be issued.*

*Consequently, notice under Section 148 of the Act dated 31.03.2022 was issued against (JBPPL). Being aggrieved, the petitioner has filed this petition."*

***[Emphasis supplied]***

11. In ***Maruti Suzuki*** also relied by Ld. AR, the Hon'ble Supreme Court had a case where the assessing-authority issued a notice to the old company (amalgamating company) despite knowing the fact of amalgamation. The Hon'ble Supreme Court held the action of AO as invalid by observing thus:

*"33 In the present case, despite the fact that the assessing officer was informed of the amalgamating company having ceased to exist as a result of the approved scheme of amalgamation, the jurisdictional notice was issued only in its name. The basis on which jurisdiction was invoked was fundamentally at odds with the legal principle that the amalgamating entity ceases to exist upon the approved scheme of amalgamation. Participation in the proceedings by the appellant in the circumstances cannot operate as an estoppel against law. This position now holds the field in view of the judgment of a co-ordinate Bench of two learned judges which dismissed the appeal of the Revenue in Spice Enfotainment on 2 November 2017. The decision in Spice Enfotainment has been followed in the case of the respondent while dismissing the Special Leave Petition for AY 2011-2012. In doing so, this Court has relied on the decision in Spice Enfotainment."*

12. However, subsequently in a decision dated 05.04.2022 in **PCIT Vs. Mahagun Realtors (P) Ltd. 443 ITR 194 (SC)**, the Hon'ble Supreme Court analysed several other decisions including its earlier decision in **Maruti Suzuki** and came to hold against assessee and in favour of revenue i.e. the assessment made by department on old company was valid. The relevant paras of judgement are re-produced below:

*"33. There is no doubt that MRPL amalgamated with MIPL and ceased to exist thereafter; this is an established fact and not in contention. The respondent has relied upon Spice and Maruti Suzuki (supra) to contend that the notice issued in the name of the amalgamating company is void and illegal.* ***The***

***facts of present case, however, can be distinguished from the facts in Spice and Maruti Suzuki on the following bases***.

*34. Firstly, in both the relied upon cases, the assessee had duly informed the authorities about the merger of companies and yet the assessment order was passed in the name of amalgamating/non-existent company. However, in the present case, for AY 2006-07, there was no intimation by the assessee regarding amalgamation of the company. The ROI for the AY 2006-07 first filed by the respondent on 30.06.2006 was in the name of MRPL. MRPL amalgamated with MIPL on 11.05.2007, w.e.f. 01.04.2006. In the present case, the proceedings against MRPL started in 27.08.2008- when search and seizure was first conducted on the Mahagun group of companies. Notices under Section 153A and Section 143(2) were issued in the name MRPL and the representative from MRPL corresponded with the department in the name of MRPL. On 28.05.2010, the assessee filed its ROI in the name of MRPL, and in the 'Business Reorganization' column of the form mentioned 'not applicable' in amalgamation section. Though the respondent contends that they had intimated the authorities by letter dated 22.07.2010, it was for AY 2007-2008 and not for AY 2006-07. For the AY 2007- 08 to 2008-2009, separate proceedings under Section 153A were initiated against MIPL and the proceedings against MRPL for these two assessment years were quashed by the Additional CIT by order dated 30.11.2010 as the amalgamation was disclosed. In addition, in the present case the assessment order dated 11.08.2011 mentions the name of both the amalgamating (MRPL) and amalgamated (MIPL) companies.*

*35. Secondly, in the cases relied upon, the amalgamated companies had participated in the proceedings before the department and the courts held that the participation by the amalgamated company will not be regarded as estoppel. However, in the present case, the participation in proceedings was by MRPL which held out itself as MRPL."*

13. The above decision of ***Mahagun Realtors*** has been analysed by ITAT, Pune Bench in **DCIT Vs. Barclays Global Service Centre Private Limited, ITA No. 46/Pun/2021, order dated 02.01.2023**, in following words:

*"16. Subsequently, even the Hon'ble Supreme Court in the case of **PCIT vs. Mahagun Realtors (P.) Ltd., 443 ITR 194 (SC)** considering the conduct of the assessee that no intimation by the assessee regarding the amalgamation of the company and the original return of income was not even revised, though the time was available after the amalgamation and the assessee company had fully held it itself as an assessee before all forums, held that the assessment made in the name of amalgamating company is valid in law. On perusal of the decision of the Hon'ble Supreme Court in the case of Mahagun Realtors (P) Ltd. (supra), it can be discerned that the decision was rendered based on the conduct of the assessee before all the forums. The Hon'ble*

*Supreme Court itself had observed vide para 33 of the said decision that the facts in the cases of Maruti Suzuki India Ltd., Spice Enfotainment Ltd. referred supra were distinguishable. What weighed with Hon'ble Supreme Court in arriving at the conclusion reached is that the assessee had deliberately mislead the Department by not informing the Assessing Officer as well as the CIT(A) the factum of amalgamation. Thus, it is clear that the decision in the Mahagun Realtors (P.) Ltd. (supra) was rendered in the peculiar facts of that case. The Hon'ble Supreme Court had not expressly overruled its earlier decision, rendered in the case of Maruti Suzuki India Ltd. (supra) (A decision rendered by Bench of three Judges). The Hon'ble Supreme Court had not laid down a proposition that even if the factum of amalgamation was brought to the notice of the AO, still an assessment can be made in the name of the amalgamating company. In our considered opinion, this decision is not an authority of proposition, that an assessment can be made in the name of non-existing entity, even though the Assessing Officer was put on notice of factum of amalgamation.*

*17. In the present case, it is undisputed position that the factum of the amalgamation was put to notice of the AO. This fact made a lot of difference not to apply the ratio of the decision in the case of Mahagun Realtors (P.) Ltd. (supra). The Hon'ble Supreme Court in the case of Padmusundara Rao (Dead) & Ors. Vs. State of T.N. & Ors. (Civil Appeal Nos.2226 of 1997 and 2058 of 2002) held that the Courts should not place reliance on the decision without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. One additional or different fact may make a world of difference between conclusions in two cases. The relevant observation of the Hon'ble Supreme Court in the case of Padmusundara Rao (Dead) & Ors. (supra) is as under :-*

> *"Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case, said Lord Morris in Herrington Vs. British Railways Board (1972) 2 WLR 537. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases."*

*18. The Hon'ble Supreme Court in the case of CIT vs. Sun Engineering Works Pvt. Ltd. 198 ITR 297 (SC) vide para 37 observed as under :-*

> *"37. ..... . It is neither desirable nor permissible to pick out a word or a sentence from the judgment of this Court, divorced from the context of the question under consideration and treat it to be the complete 'law' declared by this Court. The judgment must be read as a whole and the observations from the judgment have to be considered in the light of the questions which were before this Court. A decision of this Court takes its colour from the questions involved in the case in which it is rendered*

> *and while applying the decision to a latter case, the Courts must carefully try to ascertain the true principle laid down by the decision of this Court and not to pick out words or sentences from the judgment, divorced from the context of the questions under consideration by this Court, to support their reasonings. In H.H. Maharajadhiraja Madhav Rao Jiwaji Rao Scindia Bahadur v. Union of India [1971] 3 SCR 9 this Court cautioned:*
>
> *"It is not proper to regard a word, a clause or a sentence occurring in a judgment of the Supreme Court, divorced from its context, as containing a full exposition of the law on a question when the question did not even fall to be answered in that judgment."*
>
> ***19. In the light of above discussion, we are of the considered opinion that the decision of the Hon'ble Supreme Court in the case of Mahagun Realtors (P.) Ltd. (supra) cannot be interpreted to mean that even in the case where the factum of amalgamation was put to the notice of AO, still the assessment made in the name of amalgamating company i.e. non-existing company is valid in law.***
>
> ***20. The fact situation of the present case squarely falls within fact situation of the cases of Maruti Suzuki India Ltd., Spice Enfotainment Ltd. referred supra and the decision of the Hon'ble Bombay High Court in the case of Alok Knit Exports Ltd. vs. DCIT, 446 ITR 748 (Bom.) and Teleperformance Global Services Pvt. Ltd. vs. ACIT, 435 ITR 725 (Bom.).***
>
> ***21. Therefore, we have no hesitation to hold that the assessment order passed by the Assessing Officer in the name of non-existing entity is null and void ab initio. Accordingly, we hereby quash the assessment order.***
>
> *22. In the result, the Cross Objection filed by the assessee stands allowed.*
>
> *[Emphasis supplied]*

14. Thus, the judicial view is such that if the AO is aware of the non-existence of assessee and yet issues notice to non-existent assessee, the action of AO would be invalid. But where the AO is not at all aware of non-existence of assessee, the AO's action is protected even by Hon'ble Apex Court in ***Mahagun Realtors.*** In present case of assessee, the AO was not made aware about non-existence of assessee-firm. Therefore, the correct decision applicable to assessee's case is ***Mahagun Realtors*** and not the

decisions quoted by Ld. AR for assessee. Being so, we are inclined to uphold the validity of proceeding done by AO including the assessment-order passed therein. The assessee's ground is meritless and rejected.

Ground No. 3 to 5:

15. These grounds challenge the merit of the addition of Rs. 2,08,81,600/- made by AO and upheld by CIT(A).

16. Ld. AR for assessee submitted following precise facts:

(i) That the assessee-firm stands dissolved w.e.f. 01.04.2007 and as per clause No. (3) of dissolution-deed filed at Pages 001-002 of Paper-Book, the entire business of assessee-firm was taken over by one of the partners "Shri Jitendra Kumar Jain" who would carry on business in the original name and style of "M/s Goutam Medicose" as proprietorship concern and as per Clause No. (8) of dissolution-deed, Shri Jitendra Kumar Jain was permitted to continue bank a/c of dissolved assessee-firm but to record all transactions in books of proprietorship concern.

(ii) That, even after dissolution of assessee-firm, the old bank with original PAN of assessee-firm was continued by Shri Jitendra Kumar Jain. However, Shri Jitendra Kumar Jain has appropriately recorded all transactions in books of account of his proprietorship concern

"M/s Goutam Medicose" which is evident from the audited Balance-Sheet of proprietorship concern filed in Paper-Book at Pages 009-032.

17. With these facts, Ld. AR submitted that all transactions in impugned bank a/c held in the name of dissolved assessee-firm belonged to Shri Jitendra Kumar Jain; are duly recorded by Shri Jitendra Kumar Jain in books of proprietorship concern; and accordingly assessed in personal assessment of Shri Jitendra Kumar Jain. Therefore, those transactions cannot be assessed in the hands of assessee-firm simply because the bank a/c continued with old PAN of assessee-firm. In other way, Ld. AR submitted that the taxation of those transactions in the hands of assessee-firm, as has been done by Ld. AO, has resulted in double taxation which is not tenable.

18. Ld. DR for revenue agreed in principle that once the transactions have been assessed in the hands of Shri Jitendra Kumar Jain, there cannot be re-taxation of same in the hands of assessee-firm. However, he made a proposal that the case should be remand back to the file of AO for the limited purpose of verification that the impugned transactions have in fact been recorded in books of proprietorship concern carried by Shri Jitendra Kumar Jain.

19. We have considered submissions of both sides. Learned Representatives of both side are *ad idem* that once the transactions have been assessed in the hands of Shri Jitendra Kumar Jain, no addition can

be made in the hands of assessee-firm. We too agree to this point in principle. But, however, we also accede to the proposal made by Ld. DR to remand this issue back to the file of AO for factual verification. Accordingly, we restore this issue at the level of AO. The AO is directed to make a limited verification that the impugned transactions are in fact recorded in the books of proprietorship concern M/s Goutam Medicose run by Shri Jitendra Kumar Jain and once it is so found, delete the addition made in the hands of assessee-firm. These grounds accordingly allowed for statistical purposes.

***I.T.A. No. 710/Ind/2024:***

20. The grounds raised in this appeal are as under:

> *"01. That the order passed by Ld. AO u/s 271(1)(c) on 18.09.2023 and the order passed by Ld. CIT(A) u/s 250 on 02.08.2024 are bad in law and bad on facts.*
>
> *02. On the facts and circumstances and in the law, The Ld. CIT(A) has erred in upholding the validity of the initiation of the penalty proceedings initiated u/s 271(1)(c) of the Act disregarding the facts that the Ld. AO has passed a penalty order levying a penalty of Rs. 70,97,656/- u/s 271(1)(c) of the Act on non-existent entity.*
>
> *03. In the facts and circumstances and in the law, The Ld. CIT(A) has erred in upholding the validity of penalty that the case of the assessee was decided u/s 147/144 in a most arbitrary and illegal manner for which the assessee has filed all documentary evidences in terms of rule 46A before the CIT (A)."*

21. This, in this appeal, the assessee challenges the penalty of Rs. 70,97,656/- imposed by AO u/s 271(1)(c) qua the quantum addition of Rs. 2,08,81,600/- made in assessment-order. Ld. Representatives of both sides

are *ad idem* that the fate of penalty u/s 271(1)(c) is consequential upon the fate of quantum addition. Since we have already remanded the issue of quantum addition in *ITA No. 709/Ind/2024* to the file of AO, this penalty matter is also restored at the level of AO for a fresh adjudication. The AO shall take a final call in the matter of penalty after considering the outcome of quantum.

**22. Resultantly, the ITA No. 709/Ind/2024 is partly allowed for statistical purpose and ITA No. 710/Ind/2024 is allowed for statistical purposes.**

Order pronounced by putting on notice board
as per Rule 34 of ITAT Rules, 1963 on 21/02/2025

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|---|---|
| Sd/- | Sd/- |
| (DINESH MOHAN SINHA) | (B.M. BIYANI) |
| JUDICIAL MEMBER | ACCOUNTANT MEMBER |

**Indore**
दिनांक/ Dated : 21/02/2025
Dev/Sr. PS

Copies to:
(1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore