



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।
IN THE INCOME TAX APPELLATE TRIBUNAL, "SMC"
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.255 to 257 & 259/RJT/2025

निर्धारण वर्ष/Assessment Year : 2011-12

Vinod Vallabhbhai Sanghani AT: Matwa Vaya Khandera Post. Matwa, Jamnagar- 361013	बनाम/ Vs	Income Tax Officer, Ward-3(5), Jamnagar, Tarangali Bldg, Income Tax Officer, Hospital Road, NR. Amber Cinema, P.N Marg, Jamnagar- 361 013
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AWFPS 2366 C		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारित की ओर से/Assessee by : Shri Chetan Agarwal, AR
राजस्व की ओर से/Revenue by : Shri Dheeraj Kumar Gupta, Sr-DR

सुनवाई की तारीख/**Date of Hearing** : **15/05/2025**

घोषणा की तारीख/**Date of Pronouncement** : **16/05/2025**

आदेश/Order

Per Dr. Arjun Lal Saini, A.M

Captioned four appeals filed by the assessee, pertaining to same Assessment Year (AY), that is, 2011-12, are directed against the separate orders passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short "the Ld. CIT(A)/NFAC"], under section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), three orders of Ld.CIT(A) are dated 19.02.2025 and one order of CIT(A) is dated 07.04.2025 in case of ITA No.257/RJT/2025. In ITA No.255/RJT/2025, the assessee has challenged the unexplained addition in quantum assessment. In ITA No.256/RJT/2025, the assessee has challenged the validity of penalty



levied u/s 271(1)(c) of the Act. In ITA No.257/RJT/2025, the assessee has challenged the validity of penalty levied u/s 271F of the Act and in ITA No.259/RJT/2025, the assessee has committed one time default for non-compliance of notice during assessment proceedings, therefore, assessing officer imposed penalty u/s 271(1)(b) of the Act.

2. All the four appeals are interconnected, and relate to one assessee, for one assessment year 2011–12, therefore with the consent of parties, these appeals have been clubbed and heard together and a consolidated order is being passed, to avoid the conflicting decisions.

3. At the outset of hearing, the Ld. Counsel for the assessee submits that assessee has made sufficient compliance during quantum assessment as well as penalty(ies) proceedings. However, when the proceedings before Ld.CIT(A) was going on, then, the assessee requested the ld. CIT(A) to avail VSVS-2020 Scheme and therefore assessee's quantum appeal was dismissed, by ld CIT(A), on this count. However, later on, the assessee found difficult to deposit the tax amount under the VSVS-2020- Scheme, due to financial difficulty and could not pay the tax demanded by Department. The Ld. Counsel for the assessee contended that now the assessee wants to contest the appeal on merit, and wish to submit some additional documents and evidences before the assessing officer to prove his claim, therefore, the matter may be remitted back to the file of the Assessing Officer for fresh adjudication, on merit. The Ld. Counsel for the assessee stated that assessee has not furnished adequate documents and evidence before Assessing Officer as well as before Ld.CIT(A), and now, the assessee is willing to submit complete documents and evidences. The Ld. Counsel fairly submitted that one more opportunity should be given to the assessee to plead his case before Assessing Officer. The Ld. Counsel also



informs the Bench that appeal in ITA No.255/Rjt/2025, relates to quantum proceedings. Since the Tribunal is remitting the quantum proceedings back to the file of Assessing Officer, therefore various penalties imposed u/s 271(1)(c)/271F/271(1)(b) of the Act, may also be remitted back to the file of Assessing Officer on same footing. That is, when the quantum proceeding is remitted back to the file of the assessing officer, then in that circumstances, these penalties should also be restored back to the file of the assessing officer, for fresh adjudication, if any, in accordance with law.

4. The Id. DR for the Revenue, submitted that assessee wanted to avail VSVS-2020- Scheme, therefore, Ld.CIT(A), had rightly dismissed the appeal of the assessee, in quantum proceedings. Later on, the assessee could not adopt VSVS-2020- Scheme, due to financial difficulty, as the assessee was not in a position to deposit the tax demanded by the Department. Therefore, appeal may be revived and should be remitted back to the file of the assessing officer for fresh, adjudication, on merit.

5. I have heard both the parties and perused the materials available on record. I note that assessee wanted to avail VSVS-2020 -Scheme and informed the Ld.CIT(A) that he wanted to adopt VSVS-2020- Scheme, therefore, the quantum appeal was dismissed by Ld.CIT(A). However, later on, the assessee found difficulty to tax demanded by the Department, due to financial difficulty. Later on, the assessee informed the Ld.CIT(A) that he could not avail VSVS-2020 Scheme, due to financial difficulties, as the assessee did not have money to pay the department in the said scheme. Now, Ld. Counsel for the assessee, stated that assessee wish to contest his case before lower authorities, by filing more documents and evidences, to prove his claim. Therefore, Id. Counsel prayed the Bench to remit the quantum proceeding before Assessing Officer



with a direction to adjudicate the issue afresh, on merit. The Ld. Counsel for the assessee also contended before the Bench that assessee wants to submit some detail, documents and evidence before Assessing Officer. I accept the prayer of Ld. Counsel for the assessee, therefore, in the interest of justice and fair play, I set aside the order of Ld.CIT(A) and remit the quantum proceedings back to file of Assessing Officer with a direction to adjudicate the issue afresh in accordance with law and assessee is permitted to furnish additional evidences, if any, as and when called for, by the Assessing Officer.

6. Since I have remitted back the quantum proceedings in ITA No.255/Rjt/2025 to the file of Assessing Officer, therefore, the penalties imposed u/s 271(1)(c)/271F/271(1)(b) of the Act will not survive. That is, when the matter in quantum proceedings have been restored to the file of Assessing Officer, the penalties do not have leg to stand. However, the Assessing Officer is given liberty to initiate fresh penalties, if any, in accordance with law, in fresh quantum proceedings.

7. In the combined result, assessee's appeals (in ITA Nos. 255-257/Rjt/2025 and ITA No. 259/Rjt/2025) are treated as allowed for statistical purposes, in above terms.

Order pronounced in the open court on 16/05/2025.

Sd/-
(Dr. A.L. SAINI)
लेखा सदस्य/ACCOUNTANT MEMBER

राजकोट /Rajkot

दिनांक/ Date: 16/05/2025

DKP Outsourcing Sr.P.S



आदेश की प्रतिलिपि अत्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

By order/आदेश से,

// True Copy //

सहायक पंजीकार
आयकर अपीलीय अधिकरण, राजकोट