

**IN THE INCOME TAX APPELLATE TRIBUNAL, COCHIN**

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND  
SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No. 490/Coch/2024  
Assessment Year : 2014-15

High Range Foods Private Limited, 28/3030, Cheruparambath Road, Kadavanthra, Ernakulam-682020 PAN : AAACH6076L	vs.	DCIT, Corporate Circle-1(1) Kochi
(Appellant)		(Respondent)

For Assessee :	Shri P.M. Veeramani, CA
For Revenue :	Smt. Leena Lal

**(Heard in Hybrid Bench)**

Date of Hearing :	25-03-2025
Date of Pronouncement :	27-05-2025

**ORDER**

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

The assessee has filed the present appeal against the impugned order dt. 02-05-2024, passed u/s. 250 of the Income Tax Act, 1961 (*"the Act"*) by the Ld. Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre, Delhi [*"Ld.CIT(A)"*], which in turn arose from the penalty order dt. 26-03-2022 passed u/s. 271(1)(c) of the Act, for the AY. 2014-15.

2. The first issue that arises for our consideration pertains to the levy of penalty u/s.271(1)(c)of the Act in respect of the addition on account of deposits received from dealers in lieu of installing deep-freezers.

3. The brief facts of the case pertaining to this issue, as emanating from the record, are: Vide order dt. 30-11-2016 passed u/s. 143(3) of the Act, the AO, following the approach adopted in earlier years, made an addition of Rs.43,99,905/- being the lapsed liability on freezer deposit. The AO vide order dt. 26-03-2022 levied penalty u/s.271(1)(c)of the Act, inter alia, in respect of the above-said addition. We find that the Co-ordinate Bench of the Tribunal,while deciding the quantum appeal in ITA No. 64/Coch/2022 vide order dt. 04-08-2022 for the AY. 2014-15,deleted the addition made on account of lapsed liability on freezer deposit, following the order passed in assessee's own case for the AY. 2011-12. Since the addition itself has been deleted in quantum appeal, there is no basis for sustaining the penalty levied on this issue. Accordingly, the penalty levied by the AO u/s.271(1)(c)of the Act on this issue is deleted.

4. The next issue that arises for our consideration pertains to the levy of penalty u/s.271(1)(c)of the Act in respect of disallowance on

account of belated payment of employees' contribution towards PF/ESIC u/s. 36(1)(va) of the Act.

5. The brief facts pertaining to this issue are that during the assessment proceedings, upon the perusal of the audit report, it was observed that the assessee has deposited employees' contribution towards PF/ESIC after the due date prescribed under the relevant statute. Accordingly, the AO vide order passed u/s.143(3) of the Act disallowed the belated remittance of employees' contribution towards PF/ESIC and added the same to the total income of the assessee. Accordingly, the AO vide order passed u/s.271(1)(c) of the Act levied penalty, inter alia, in respect of the aforesaid disallowance.

6. From the perusal of the record, it is evident that the addition on account of belated remittance of employees' contribution towards PF/ESIC has been made upon perusal of the audit report in Form No. 3CD filed by the assessee, as the assessee had made the contribution after the due date prescribed under the relevant statute. Thus, it is evident that it is not a case where the assessee has concealed the particulars of his income or furnished inaccurate particulars of such income, and rather it is a case where the claim of the assessee that employees' contribution towards PF/ESIC made before the due date of filing the return of income is allowable was denied. We find that while examining the meaning of the term "*particulars*" in section

271(1)(c) of the Act, the Hon'ble Supreme Court in CIT v/s Reliance Petroproducts (P) Ltd.; [2010] 322 ITR 158 (SC) held that mere making of the claim, which is not sustainable in law, by itself, will not amount to furnishing inaccurate particulars regarding the income of the assessee. The relevant findings of the Hon'ble Supreme Court, in the case cited supra, are as follows: –

*"9. We are not concerned in the present case with the mens rea. However, we have to only see as to whether in this case, as a matter of fact, the assessee has given inaccurate particulars. In Webster's Dictionary, the word "inaccurate" has been defined as :—*

*"not accurate, not exact or correct; not according to truth; erroneous; as an inaccurate statement, copy or transcript."*

*We have already seen the meaning of the word "particulars" in the earlier part of this judgment. Reading the words in conjunction, they must mean the details supplied in the Return, which are not accurate, not exact or correct, not according to truth or erroneous. We must hasten to add here that in this case, there is no finding that any details supplied by the assessee in its Return were found to be incorrect or erroneous or false. Such not being the case, there would be no question of inviting the penalty under section 271(1)(c) of the Act. A mere making of the claim, which is not sustainable in law, by itself, will not amount to furnishing inaccurate particulars regarding the income of the assessee. Such claim made in the Return cannot amount to the inaccurate particulars."*

7. Therefore, respectfully following the decision of the Hon'ble Supreme Court in Reliance Petroproducts (P) Ltd. (supra), we are of the considered view that the levy of penalty u/s 271(1)(c) of the Act on this issue is not justifiable, and accordingly the same is deleted.

8. The last issue that arises for our consideration pertains to the levy of penalty u/s.271(1)(c)of the Act in respect of the addition

made on account of interest received by the assessee on refund u/s. 244A of the Act.

9. The brief facts of the case pertaining to this issue are that during the assessment proceedings, upon perusal of the Individual Transaction Statement of the assessee pertaining to the year under consideration, it was noticed that the assessee had received interest u/s. 244A of the Act, amounting to Rs. 58,573/- on the refund received from the Department for the AY. 2010-11. As the interest received on the refund received from the Department is taxable income in the year of receipt and the assessee failed to offer the same, the AO vide order passed u/s.143(3) of the Act treated the said interest received u/s. 244A of the Act as income of the assessee. Accordingly, penalty u/s.271(1)(c) of the Act was levied, inter alia, on this addition.

10. As per the assessee, the said interest u/s. 244A of the Act on the income tax refund was granted while giving effect to the appellate orders of earlier years and the refund determined by the said orders was further adjusted against the demands for earlier years, and therefore, the assessee did not receive any communication regarding the proceedings giving effect to the appellate orders and adjustment thereof. The assessee submitted that, accordingly, it did not consider the interest in the return for the year under consideration.

11. Having considered the submissions and perused the material available on record regarding this issue, we are of the view that the explanation of the assessee regarding not considering the interest received u/s 244A of the Act on income tax refund while filing the return for the year under consideration falls within the ambit of "reasonable cause" in terms of the provisions of the section 273B of the Act. Accordingly, the penalty levied by the AO u/s.271(1)(c) of the Act on this issue is deleted.

12. Accordingly, all the grounds raised by the assessee are allowed, and the penalty of Rs. 13,86,070/- levied u/s.271(1)(c) of the Act is deleted.

13. In the result, the appeal by the assessee is allowed.

Order pronounced on 27-05-2025 by way of proper mentioning  
on the Notice Board

Sd/-  
[INTURI RAMA RAO]  
ACCOUNTANT MEMBER

Sd/-  
[SANDEEP SINGH KARHAIL]  
JUDICIAL MEMBER

Cochin,  
Dated: 27-05-2025

TNMM

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, ITAT
- 5) Guard file

By Order

Asst. Registrar  
I.T.A.T, Cochin