

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI PARESH M. JOSHI, JUDICIAL MEMBER**

**ITA No.397/Ind/2024**  
**Assessment Year: 2012-13**

C.I. Finlease Private Limited, 182, Zone-I, M.P. Nagar, Bhopal	<b><u>बनाम/</u></b> Vs.	DCIT-1(1), Bhopal
(Assessee/Appellant)		(Revenue/Respondent)
<b>PAN: AABCC6164B</b>		
Assessee by	Shri R.K. Mangal, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	02.06.2025	
Date of Pronouncement	06.06.2025	

**आदेश / O R D E R**

**Per B.M. Biyani, A.M.:**

Feeling aggrieved by order of first-appeal dated 08.04.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of penalty-order dated 27.03.2018 passed by learned DCIT-1(1), Bhopal ["AO"] u/s 271(1)(c) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2012-13, the assessee has filed this appeal on the grounds mentioned in Appeal Memo (Form No. 36).

2. The background facts leading to present appeal are such that the assessee-company is engaged in the business of sales and service of vehicles alongwith activity of financing through hire purchases and loans. For AY 2012-13 under consideration, the assessee filed return declaring a total income of Rs. 43,42,890/-. The case of assessee was selected for scrutiny and the AO passed assessment-order u/s 143(3) on 19.03.2015 determining total income at Rs. 98,25,940/- after making certain additions and disallowances. Against assessment so framed, the assessee filed quantum-appeal to CIT(A) but did not get any success. The assessee filed next appeal to ITAT, Indore but the same stands dismissed by this very bench vide a separate order of even date for the technical reason of delayed filing.

2.1 One of the various additions made by AO in assessment-order was of Rs. 48,80,382/- on account of "undisclosed business income". For this addition, the AO also initiated proceeding for imposition of penalty u/s 271(1)(c) vide notice dated 19.03.2015 and ultimately passed penalty-order dated 27.03.2018 imposing a penalty of Rs. 15,10,000/-. Aggrieved by penalty so imposed, the assessee filed a separate appeal to CIT(A) but did

not succeed. Now, the assessee has come in present appeal before us assailing the imposition of penalty.

4. Thus, in present appeal, we are concerned with the issue of imposition of penalty of Rs. 15,10,000/- u/s 271(1)(c) qua the addition of Rs. 48,80,382/-.

5. We have heard the learned Representatives of both sides and perused the orders of lower-authorities. After a careful consideration, we find that the impugned addition of Rs. 48,80,382/- was made by AO, treating the advances of Rs. 48,80,382/- received by assessee from different customers towards vehicle servicing contracts/obligations to be performed in future called "Service-I", "Service-II" and "Service-III". The assessee has declared such advance-receipts as liability in book of account of current year whereas the AO has treated the same as revenue receipts/income of current year. Precisely, for this reason, the AO made impugned addition. The issue as to whether the treatment given by assessee is proper or not, has already been decided by Co-ordinate Bench of ITAT, Indore in assessee's favour in assessee's own case for earlier AY 2010-11 in **ITA No. 415/Ind/2015**. Copy

of ITAT's order dated 05.04.2016 is filed by Ld. AR in Paper-Book at Page No.

6 to 16. The relevant paras of ITAT's order are re-produced below:

*"3. The short facts of the case are that the assessee is a Limited Company engaged in the business of sale and services of Hyundai Vehicles and also in hire purchase and loan. The assessee furnished its e-return of income for assessment year 2010-11 on 16.02.2010 declaring total income of Rs. 93,55,370/-. The case was selected for scrutiny by issuing notice u/s 143(2) of the Act. The assessment u/s 143(3) of the Act was completed on 15.10.2013 determining total income of Rs. 1,46,90,945/-. The AO noticed that the assessee has shown following amounts as liability.*

<b>Particulars</b>	<b>Amount</b>
<i>Advance against I Service</i>	<i>2,56,125/-</i>
<i>Advance against II Service</i>	<i>6,34,275/-</i>
<i>Advance against III Service</i>	<i>10,43,825/-</i>
<i>Claims against settlement</i>	<i>26,21,500/-</i>
<i>Advance from Customer</i>	<i>7,07,844/-</i>
<i>Total</i>	<i>52,63,569/-</i>

*4. The assessee had collected the above sums against Ist, IInd and IIIrd service. The assessee had also collected a sum of Rs. 45,91,800/- for claims against settlement. The assessee did not file details of sum of Rs. 7,07,844/- collected from the customers. The AO held that the above sums collected by the assessee from the customers were of revenue in nature, whereas these sums were shown in the audited accounts as liability. Therefore, the AO made the addition of Rs. 52,63,563/- as undisclosed business income.*

*5. In appellate proceedings. Representative for the assessee submitted that in the audited the balance sheet under the head "Current Liabilities", the Id. Authorized assessee had shown total amount of Rs. 1,51,30,144/- as advance from customers. During the course of assessment proceedings, the Id. AO never required the assessee to explain the nature to explain the nature*

*of advances and never raised any query. The AO considered the advances of Rs. 52,63,569/- as revenue nature instead of current liability. The AO added this sum to the income of the assessee as undisclosed business income. The Id. Authorized Representative submitted before the AO that after sale of vehicles, the assessee has to provide free services within a period of 24 months from the date of sale of the vehicle, which is compulsory as per the instructions of Hyundai Motors India Limited. To compensate the dealer for these free services, Hyundai Motor India Limited has inbuilt the cost of these free services in the dealers margin. Since these free services are not necessarily provided in the year of sale of the vehicle, but are provided over a period of time, the assessee separates the amount of these three services and credits the same to the "Advance against Free service Accounts". Thereafter, as and when these services are rendered, the said account is debited and credited as income to the Service & Labour Charges account. The vehicle owner can get his vehicle free serviced from any other Hyundai Dealer. In that case also, the assessee has to pay the amount retained against free service to the other Hyundai Dealer. Therefore, till the services are rendered, the amount of free service is maintained separately as advance. This is done according to normal business practice and mercantile system, income and expenditure are recorded at the time of their occurrence, neither before nor after. The Id. Authorized Representative for the assessee submitted that considering the entire amount of balance in the free service accounts as income even before the services are rendered, is not justified. Regarding advance of customers of Rs. 7,07,544/-, the AO never required the assessee to submit details of aforesaid amount and also did not put any query regarding the same for explanation. These amounts were liability of the assessee and were not in the nature of any income. The Id. Authorized Representative for the assessee submitted before the AO that the amount of Rs. 52,63,569/- was not the income of the assessee for the relevant year and prayed that the addition may be deleted.*

*6. The matter carried to the Id. CIT(A) and the Id. CIT(A) deleted the amount of Rs. 19,34,225/- on account of advance against free services.*

*7. The Id. Departmental Representative relied upon the order of the AO. No one appeared on behalf of the assessee.*

*8. We have heard the Id. Departmental Representative. We find that there is no denial of the fact that the amount received from Hyundai Motor India Limited is a revenue receipt. The assessee had also accounted for the same as income, when the services are actually rendered. Hence, there is no escapement of income on account of service charges received from Hyundai Motor India Limited by the assessee. We uphold the action of Id. CIT(A) in deleting the addition made on account of advance against free services of Rs. 19,34,225/-. Our interference is not required. Ground no. 1 is rejected."*

6. Thus, the Co-ordinate Bench has accepted the assessee's approach and deleted the quantum addition in earlier AY 2010-11. The addition made by AO in current year, as submitted by Ld. AR for assessee, is no different from the addition made by AO in earlier year but ultimately deleted by ITAT. Although in current year, assessee's quantum-appeal has been dismissed by this very bench of ITAT for the technical reason of delayed filing but the quantum-addition of Rs. 48,80,382/- made by AO is certainly not sustainable as per ITAT's existing view in earlier year. When the quantum-addition itself is not sustainable, there cannot be a case of concealing particulars of income/furnishing inaccurate particulars of income so as to trigger the penalty u/s 271(1)(c). In that view of matter, the AO is wrong to invoke the provision of section 271(1)(c) and impose penalty. We, therefore, delete the penalty imposed by AO. The assessee succeeds in this appeal.

**7. Resultantly, this appeal is allowed.**

Order pronounced in open court on 06/06/2025
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Sd/-

(PARESH M. JOSHI)  
JUDICIAL MEMBER  
Indore

Sd/-

(B.M. BIYANI)  
ACCOUNTANT MEMBER

दिनांक /Dated : 06/06/2025

Patel/Sr. PS

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

By order  
Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore