

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

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND  
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER

I.T.A. No. 121, 122, 124, 125, 127 & 128/Ran/2018  
(Assessment Years-2007-08, 2008-09, 2009-10, 2010-11, 2011-12 & 2012-13)

M/s Bharat Coking Coal Ltd., Finance Directorate, Ground Floor, Koyla Bhawan, Koyla Nagar, Dhanbad-826005. <b>PAN No. AAACB 7934 M</b>	Vs.	A.C.I.T., Central-1, Dhanbad.
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	Shri M.K. Choudhary with Shri Devesh Poddar, ARs.
Department represented by	Smt. Rinku Singh, CIT-DR
Date of hearing	11/06/2025
Date of pronouncement	11/06/2025

**ORDER**

**PER: BENCH**

1. These appeals filed by the assessee(s) are directed against the separate orders of the learned Commissioner of Income Tax (Appeals), Dhanbad [in short, the Id. CIT(A)] all dated 14/03/2018 for the Assessment Years (AY) 2007-08 to 2012-13. Since all the appeals have identical facts and grounds except variation in the amount of penalty, therefore, all these appeals are clubbed and heard together and are being decided by this common order. As a lead case, we take ITA No. 121/Ran/2018 for the A.Y. 2007-08, in this appeal, the assessee has raised following grounds of appeal:

- "1. For that Ld. CIT(A) was not justified in confirming the order imposing penalty passed by Ld. A.O. Order of penalty was passed ignoring the provision of section 275 since appeal filed for quantum was pending before Hon'ble ITAT for hearing. U. A.O. Imposed penalty without considering merits of the addition.
2. For that Ld. A.O. initiated penalty proceeding as per assessment order which states that - "that the penalty proceeding U/s 271 (1) (C) initiated". In the notice

*of penalty also, it is not specified as to whether penalty was initiated for concealment of income or for furnishing inaccurate particulars of income. Ld. CIT(A) has tried to distinguish the decisions of Hon'ble Apex Court and various High Courts, which was cited by the appellant to suggest that initiation of penalty proceeding was vague, as such, order imposing penalty was illegal.*

3. *For that out of total disallowed contractual expenditure of Rs. 12.44 Cr, Rs. 0.13 Cr relates to capital work and Rs. 12.32 Cr relates to revenue work as reported by DGIT (Investigation, Patna) vide its report dated 09.01.2014. However, an amount of Rs. 5.14 Cr was only charged to P&L A/C as per the audited accounts, the details of which were furnished before CIT(A) on 19.06.2017 during the course of hearing. The payment was made based on certification of work done by different authorities of BCCL.*
4. *Further, the disallowance of contractual expenses of Rs. 7.53 Cr is comprised of Rs. 5.14 Cr related to Kustore area and the balance Rs. 2.39 Cr related to PB Area. The expenditure disallowed for want of party wise details at the time of assessment is unjustified. As stated above, the party wise details of Rs 7.53 Cr were already furnished to CIT (A) on 19.06.20 17 during the course of hearing. The expenses incurred were verified by internal auditor, statutory auditor and CAG thereafter only accounts were finalised and passed by board of directors of the appellant.*
5. *For that the addition made in the order of -assessment as confirmed by Ld. CIT(A) are in dispute before Hon'ble ITAT. None of the additions made can be considered as concealment of income. Further, none of the additions will come under purview of furnishing inaccurate particulars. Ld. AO was therefore not justified in imposing penalty U/s 271(1)(c).*
6. *For that other grounds in details will be argued at the time of hearing."*

2. The brief facts of the case are that the appellant company, a public sector undertaking (PSU) and a subsidiary company of M/s Coal India Ltd (CIL), is engaged in coal mining and a few ancillary jobs. The appellant company filed its return for the year under consideration on 31/10/2007 thereafter the said return of income was revised and the revised return was filed on 26/09/2008, subsequently, the case of appellant was reopened, based on the information received from the Investigation Wing, Patna that consequent upon a search and seizure operation in the case of Shri Lal Bahadur Singh and others (LBS), the department was in possession of evidence that the appellant had made bogus payments in the name of execution of contract work awarded to LBS

and other contractors. Subsequently, notice u/s 274 of the Act was issued for initiation of penalty u/s 271(1)(c) of the Act and was accordingly imposed.

3. Before the Id.CIT(A),the assessee claimed that the AO, in the show cause notice for levying penalty, did not specifically point out as to whether the penalty was for the concealment of income or for furnishing inaccurate particular of income. Accordingly, the appellant submitted that the show cause notice was defective on which no penalty could be imposed. The Id.CIT(A),however, rejected the contention of the assessee and held that mere not striking off of one limb in the show cause notice issued u/s 274 of the Act will not invalidate the whole penalty order.
4. Before us, the Id. AR of the appellant appeared and filed written submissions and claimed that during assessment proceedings u/s 153A, all the details were provided to the Id. AO and no adverse inference was drawn while accepting the return of income. No fact has been brought on record to prove that any concealment has been made or inaccurate particulars have been submitted. The appellant's counsel also filed written submission along with copy of penalty notices issued u/s 274 r.w.s. 271(1)(c) of the Act and submitted that the notice issued u/s 274 of the Act for the initiation of penalty by the Id. AO is defective in as much as the said notice did not specifically state as to whether it was for concealment of income or for furnishing of incorrect particulars of income. The assessee has placed reliance on various case laws in support of the contention that if certain show cause notice of penalty in printed form was issued u/s 274 without pointing the relevant default, initiation of penalty proceedings on one limb while finding the assessee guilty in another limb is bad in law as held in

the case of CIT & Anr. vs. Manjunatha Cotton & Ginning Factory 359 ITR 565 (Kar.) It is further contended the Hon'ble Supreme Court in the case of in SSA's Emeralds Meadows vs. CIT 242 taxmann 180 on similar facts has also held there was no substantial question of law and dismissed the SLP of the Department with regard to the above penalty proceedings.

5. The learned CIT-DR has relied on the orders of lower authorities holding that penalty was rightly initiated and imposed.
6. We have carefully considered the facts of the case, the rival submissions and provisions of the Act in this regard and also the relevant case laws. It may be stated here that similar issue has already been dealt with by this Bench in its recent decision in the case of Raj Kumar Agrawal vs CIT for Assessment Years 2012-13 to 2016-17 in ITA No.255- 258/Ran/2023 dated 26th August 2024. In this case also, the assessee contested penalty order u/s 271(1) (c) on alleged defective notice issued u/s 274 of the Act. The Bench after taking note of the facts of the case and proposition of law as emerging from cited decisions cancelled all the penalty orders. The operative part of the appeal is reproduced as below for ready reference:-

*"4. We observe from the notices above that the limb on which the penalty has been imposed is not specified. The inappropriate portion of the notice has not been struck off. It is discernible that the AO had not struck off either of the two limbs i.e. concealment of the particulars of income; and furnishing of inaccurate particulars. The Full bench of the Hon'ble Bombay High Court in Mohd. Farhan A. Shaik vs. Dy. CIT (2021) 125 taxmann.com 253 (Bom.) considered this very issue. Answering the question in affirmative, the full bench held that a defect in notice of not striking the inappropriate words vitiates the penalty even though the AO had properly recorded the satisfaction for imposition of penalty in his order u/s143 (3) of the Act. In another judgment, the Hon'ble Bombay High Court in Pr. CIT vs. Golden Peace Hotels and Resorts (P) Ltd. (2021) 124 taxmann .com 248 (Bom.) also took similar view that where the portions which are inapplicable in the penalty notice were not struck off,*

*the penalty was vitiated. SLP of the Department against this judgment has been dismissed by the Hon'ble Supreme Court in Pr. CIT vs. Golden Peace Hotels and Resorts (P) Ltd. (2021) 124 taxmann.com 249 (S.C).*

*5. The Hon'ble Karnataka High Court in SSA Emeralds Meadows vs. CIT 242 taxmann 180 also echoed the view that if the charge of penalty is not specific in the notice issued to the assessee u/s 274 r.w.s.271 (1) (c) of the Act, meaning thereby if such notice is ambiguous as to whether penalty is levied for concealment of income or for providing of inaccurate particulars of income, then such notice is void ab initio and bad in law. This view of the Hon'ble Karnataka High Court was upheld by the Hon'ble Apex Court whereby the SLP filed by the Department was dismissed in CIT vs. SSA Emeralds Meadows (2016 )242 taxmann 180 (S.C).*

*6. We must reiterate and we feel appropriate in this context of adjudication also to revisit the classic decision of Hon'ble Karnataka High Court in CIT & Anr. vs. Manjunatha Cotton & Ginning Factory 359 ITR 565 (Kar.) wherein the court had enshrined that levy of penalty is altogether different from assessment procedures. The penalty cannot be levied in a routine manner. The principles of natural justice must be followed wherein the notice served on the assessee must clearly and unambiguously specify the charge on which the Department proposes to levy the penalty so that the assessee can be ready with his defence and prepare his case and submissions accordingly.*

*7. In view thereof, even without going into the merits of the extant cases only on the very legal premise that in the penalty notice issued u/s 274 r.e.s.271(1)(c) of the Act, the inapplicable words were not struck off, the levy of penalty therefore is vitiated and is held bad in law. We therefore, set aside the orders of the Id. CIT(A) and direct the AO to delete the penalty from the hands of the assessee for the years hereinabove enumerated in the cause title."*

7. Since the issue in hand hinges on the alleged defective show cause notice issued in terms of section 274 of the Act is similar, following this Bench's decision in the case of Raj Kumar Agrawal (supra), we, set aside the penalty order and direct the AO to delete the penalty imposed on the assessee.
8. In the result, this appeal filed by the assessee is allowed.
9. Now we take ITA Nos. 122, 124, 125, 127 & 128/Ran/2018 for the A.Y. 2008-09 to 2012-13, we find that in these appeals, the assessee has raised similar grounds of appeals except variation of penalty as made by the Assessing

Officer and as confirmed by the Id. CIT(A). We also find that the facts of the cases and the grounds of appeals as raised by the assessee in these appeals are similar to the facts and grounds of appeal as raised in ITA No.121/Ran/2018 for the A.Y. 2007-08, where we have allowed the appeal of assessee by deleting the penalty imposed on the assessee. Therefore, keeping in view the principle of consistency on similar set of facts, all these appeals of assessee are also allowed with similar direction. In the result, grounds of appeals are allowed.

10. In the result, all these appeals of the assessee are allowed.

Order announced in open court on 11th June, 2025.

Sd/-  
(GEORGE MATHAN)  
JUDICIAL MEMBER

Sd/-  
(RATNESH NANDAN SAHAY)  
ACCOUNTANT MEMBER

Ranchi, Dated: 07/07/2025

*\*Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Ranchi