

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1758/PUN/2025
निर्धारण वर्ष / Assessment Year : 2014-15

Kavita Balraj Lanjile, Flat No.401, Bldg. No.A-2, Shivranjan Tower, Someshwarwadi, Pune- 411008. PAN : AAQPL5138C	Vs.	ITO, Ward-11(2), Pune.
Appellant		Respondent

Assessee by : Shri Bharat Shah
Revenue by : Shri Harshit Bari

Date of hearing : 21.08.2025
Date of pronouncement : 14.10.2025

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 23.01.2024 passed u/s 271(1)(c) of the IT Act by Ld. CIT(A)/NFAC for the assessment year 2014-15.

2. Facts of the case, in brief, are that the assessee is an individual having income from profession and business income in the shape of interest on capital and remuneration from partnership firm and also agricultural income. The assessee furnished her return of income on 17.07.2014 disclosing professional income, income from other

sources and agricultural income. Subsequently, books of account of M/s. Balaje Green Valley got audited wherein the assessee was a partner. Inadvertently the assessee could not show interest on capital and remuneration from above partnership firm since the return of income was already furnished in the month of July whereas the audit u/s 44AB of the Act of the above partnership firm was conducted in the month of September and the copy of account in the books of partnership firm was not available on the date of furnishing of return of income i.e. in the month of July which led to the omission in disclosing the above said income. Subsequently, the case was selected for scrutiny and notice u/s 143(2) of the Act was issued on 24.06.2016 and the assessee voluntarily revised her return of income and disclosed the above said income and paid the due taxes. However, the Assessing Officer rejected the revised return since it was furnished beyond the time limit prescribed u/s 139(5) of the Act and completed the assessment u/s 143(3) of the Act and also initiated proceedings u/s 271(1)(c) of the Act for imposition of penalty. The Assessing Officer issued notice u/s 271(1)(c) of the Act dated 04.01.2017 and after considering the reply of the assessee, imposed penalty u/s 271(1)(c) of the Act for Rs.1,68,657/-.

3. The assessee furnished an appeal before Ld. CIT(A)/NFAC against the above penalty order. After considering the reply of the assessee Ld. CIT(A)/NFAC rejected the grounds and dismissed the appeal filed by the assessee.

4. It is the above order against which the assessee is in appeal before this Tribunal.

5. Ld. AR appearing from side of the assessee submitted before us that the order passed by Ld. CIT(A)/NFAC is unjustified. Ld. AR submitted that the Assessing Officer has not recorded any satisfaction either regarding furnishing of inaccurate particular or concealment of income rather impugned penalty was levied for both the alleged defaults. Ld. AR further produced copy of notice issued u/s 271(1)(c) of the Act wherein particular limb was not ticked or inapplicable limb was not struck off. Accordingly, Ld. AR contended before the Bench that the impugned notice was defective since the assessee was not knowing that under which limb the Assessing Officer is going to impose the penalty. Ld. AR relied on a decision passed by coordinate bench of this Tribunal in the case of Mr. Vikas Jayram Bhukan vs. ITO in ITA No.2483/PUN/2024 order dated 30.05.2025 wherein the Tribunal relying on the judgement

passed by Hon'ble Bombay High Court in the case of Times Global Broadcasting Ltd. deleted the penalty which was imposed on the basis of similar defective notice. Accordingly, Ld. AR requested to delete the penalty u/s 271(1)(c) of the Act and allow the appeal of the assessee.

6. Ld. DR appearing from side of the Revenue relied on the orders passed by the subordinate authorities and requested to confirm the same.

7. We have heard Ld. Counsels from both the side and perused the material available on record including the case laws furnished by the assessee. In this regard, we find that Ld. Counsel of the assessee relied on the decision passed by coordinate bench of this Tribunal in the case of Mr. Vikas Jayram Bhukan vs. ITO in ITA No.2483/PUN/2024 order dated 30.05.2025 wherein the Tribunal relying on the judgement passed by Hon'ble Bombay High Court in the case of PCIT vs. Times Global Broadcasting Ltd. in Income Tax Appeal No.1943 of 2018 order dated 27.02.2025 and deleted the penalty which was imposed on the basis of defective notice by observing as under :-

“8. We have heard Ld. counsels from both the sides and perused the material available on record including the copy of notice issued u/s 274

r.w.s. 271(1)(c) of the IT Act and also the copy of judgement passed by Hon'ble Bombay High Court in the case of Times Global Broadcasting Ltd. (supra) wherein under the identical facts & in similar circumstances the appeal filed by the revenue was dismissed by observing as under

"4. Mr. Shah, learned Senior Advocate for the Respondent, submits that issue raised is now endorsed by the Full Bench of this Court in the case of Mohd. Farhan A. Shaikh Vs. Deputy Commissioner of Income Tax, Central Circle 1, Belgaum¹.

5. We have perused the impugned order and find that, in this case, the notice issued to the Assessee did not clarify whether the penalty was proposed to be imposed on the grounds of concealment or furnishing inaccurate particulars. The necessary box containing the two options was not ticked. Thus, the Assessee had no clear notice about the case it was required to meet.

6. Precisely, in the above context, the Full Bench has made the following observations in paragraph Nos. 180 to 183 of its decision. These observations read as follows: -

"...180. One course of action before us is curing a defect in the notice by referring to the assessment order, which may or may not contain reasons for the penalty proceedings. The other course of action is the prevention of defect in the notice-and that prevention takes just a tick mark. Prudence demands prevention is better than cure.

Answers:

Question No.1: If the assessment order clearly records satisfaction for imposing penalty on one or the other, or both grounds mentioned in Section 271 (1) (c), does a mere defect in the notice-not striking off the irrelevant matter-vitiate the penalty proceedings?

181. It does. The primary burden lies on the Revenue. In the assessment proceedings, it forms an opinion, prima facie or otherwise, to launch penalty proceedings against the assessee. But that translates into action only through the statutory notice under section 271(1)(c), read with section 274 of IT Act. True, the assessment proceedings form the basis for the penalty proceedings, but they are not composite proceedings to draw strength from each other. Nor can each cure the other's defect. A penalty proceeding is a corollary; nevertheless, it must stand on its own. These proceedings culminate under a different statutory scheme that remains distinct from the assessment proceedings. Therefore, the assessee must be informed of the grounds of the penalty proceedings only through statutory notice. An omnibus notice suffers from the vice of vagueness.

182. More particularly, a penal provision, even with civil consequences, must be construed strictly. And ambiguity, if any, must be resolved in the affected assessee's favour.

183. Therefore, we answer the first question to the effect that Goa Dourado Promotions and other cases have adopted an approach more in consonance with the statutory scheme. That means we must hold that Kaushalya does not lay down the correct proposition of law....."

7. Thus, we are satisfied that the questions now proposed, stand answered against the Revenue, inter alia by the Full Bench of this Court in the case of Mohd. Farhan (supra).

8. For the above reasons, we decline to admit this appeal on the questions proposed.

9. The Appeal is dismissed.

10. No costs."

9. In this regard, we find that the above judgement passed by Hon'ble Bombay High Court is squarely applicable to the facts of the case and Ld. DR could not bring any other order in favour of Revenue passed by Hon'ble jurisdictional High Court. Therefore respectfully following the above judgement passed by Hon'ble Bombay High Court in the case of DCIT vs. Times Global Broadcasting Ltd., Income Tax Appeal No.1943 of 2018 order dated 27.02.2025, we direct the Assessing Officer to delete the penalty of Rs.13,44,580/- imposed u/s 271(1)(c) of the IT Act. Thus, the grounds raised by the assessee are allowed.

10. In the result, the appeal filed by the assessee is allowed."

8. Respectfully following the above decision passed by coordinate bench of this Tribunal in the case of Mr. Vikas Jayram Bhukan vs. ITO in ITA No.2483/PUN/2024 order dated 30.05.2025, we are of the considered opinion that the penalty notice was defective since particular limb was not ticked or strike off, therefore, the penalty imposed u/s 271(1)(c) of the Act was not correct. Accordingly, we direct the Assessing Officer to delete the

penalty of Rs.1,68,657/- imposed u/s 271(1)(c) of the Act. Thus, the legal ground of appeal raised by the assessee is allowed.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced on this 14th day of October, 2025.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 14th October, 2025.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr.CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.