

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्रीएम.बालगणेश, लेखासदस्यकेसमक्षएवं. श्रीएसएसविश्वनेत्ररवि, न्यायिकसदस्य
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकरअपीलसं./ITA No.:2138&2139/Chny/2025

निर्धारणवर्ष / Assessment Year:2021-22

Assistant Commissioner of Income Tax, Central Circle-2(1), Chennai.	vs.	Shri Pramod Chordia No.112, St. Marys Road, Vidya Theertha Nagar, Alwarpet, Chennai-600 018. [PAN:AAHPP0442L]
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/Appellant by : Mr.D.Anand, Advocate
प्रत्यर्थीकीओरसे/Revenue by : Mr.C.P.Solomon, JCIT

सुनवाईकीतारीख/Date of Hearing : 23.10.2025

घोषणाकीतारीख/Date of Pronouncement: 24.10.2025

आदेश / O R D E R

PER M. BALAGANESH, AM :

These appeals by the Revenue are filed against the order of the learned Commissioner of Income Tax (Appeal), Chennai-19 (in short Ld.CIT(A) for the assessment years 2021-22, vide orders dated 13.05.2025 and 14.05.2025 respectively.

ITA No.2138 / Chny / 2025

2.0 The Revenue has raised the following grounds of appeal before us:-

“....1. The Order of the learned Commissioner of Income Tax (Appeals) is erroneous on facts and in law.

2. The Ld.CIT(A) erred in deleting the penalty of Rs.84,60,000/- u/s 271AAB on wrong and erroneous application of the said provisions.

3. The Ld.CIT(A) erred in holding that for imposing a penalty, under Section 271AAB of the Act, mere income admitted cannot be classified as "undisclosed income" but the Assessing Officer has to demonstrate how the income impugned is to be treated as "undisclosed income for levy of penalty u/s 271AAB and in extrapolating the same when that was not there or intended in the provision itself ie 271AAB of the Act.

4. The Ld.CIT(A) erred in reliance on case of M/s. Future Gaming & Hotel Services Pvt. Ltd Vs ACIT (2025) of ITAT Chennai & the decision Padam Chand Pungliya Vs ACIT (ITA No.112/Jp/2018) to hold that mere disclosure of income to avoid litigation due not constitute "undisclosed income" for the purposes of imposing penalty u/s 271AAB as nowhere in the assessment or appellate proceedings has the assessee taken such stand.

5. For these grounds and any other ground including amendment of grounds that may be raised during the course of appeal proceedings, the Order of the Ld CIT(Appeals) may be set aside and that of the Assessing Officer may be restored...”

3.0 We have heard the rival submissions in the light of material available on records. We find that the Ld.CIT(A) had deleted the levy of

penalty u/s. 271AAB of the Act in the facts and circumstances of the instant case both on law as well as on facts. The Ld.CIT(A) had indeed given a categorical finding that the penalty show cause notice issued u/s 271AAB of the Act does not specify the specific charge of offence committed by the assessee i.e. whether the assessee has under-reported his income or mis-reported his income. The Ld.CIT(A) by placing reliance on various decisions of Hon'ble High Courts and Tribunal had cancelled the levy of penalty u/s 271AAB of the Act on the point of defective show cause notice itself. The relevant observations of the Ld.CIT(A) in this regard are as under:-

“....6.4.16 Further, the order u/s 271AAB dated 29.06.2023 levying the penalty also fails to specify as to how the appellant has fulfilled the conditions of clause (a) of section 271AAB (1A) of the Act while accepting the total income in the return of income e-filed u/s 139 of the Act for the AY 2021-22. Further, the AO in the assessment order has initiated the penalty proceedings, u/s 271AAB of the Act for under reporting of income to the tune of Rs. 1,26,00,000/-. However, as evident in the penalty order passed u/s 271AAB of the Act dated 29.06.2023 has chosen to levy the penalty amounting Rs. 9,00,000/- which is 30% of Rs. 30,00,000/- as per the provisions of section 271AAB (1A) (a) of the Act and further proceeded to levy the penalty amounting Rs. 75,60,000/- which is 60% of Rs. 1,26,00,000/- as per the provisions of section 271AAB (1A) (b) of the Act. Thus, there exists contradictory findings in the assessment order and the penalty order passed. In view of the above discussions and judicial precedence(s), the undersigned is of the view that the AO is not clear about the specific charge to levy penalty u/s 271AAB of the Act, in the assessment order or in the show cause notice issued to levy the said penalty. Accordingly, the additional grounds raised by the appellant upon this issue are hereby treated as allowed.....”

The revenue has not challenged the aforesaid legal findings of the Ld.CIT(A) before us.

4.0 Apart from the above, the Ld.CIT(A) had also deleted the levy of penalty on merits by making his observations in para 6.5 to 6.5.13 of his order. Since the challenge before us is only on merits of deletion of penalty u/s 271AAB of the Act, the adjudication of the same would serve no purpose as ultimately the penalty has been deleted by the Ld.CIT(A) on the ground of non-mentioning of specific charge of offence committed by the assessee which is not challenged before us. Hence, we hold that the adjudication of the grounds raised by the revenue would only be academic in nature.

5.0 In view of the aforesaid observations, the grounds raised in ITA No.2138/Chny/2025, by the revenue does not serve any purpose and are accordingly dismissed.

ITA No.2139 / Chny / 2025

6.0 The only issue to be decided in this appeal is as to whether the Ld.CIT(A) was justified in deleting the penalty of Rs.1,26,00,000/- u/s 271AAD in the facts and circumstances of the instant case.

7.0 We have heard the rival submissions in the light of material available on records. The assessee is an individual engaged in the business of financing. The assessee is assisted by few other people in running his finance business as a Syndicate. Search was carried out u/s. 132 of the Act at the business premises of the assessee on 23.09.2021. The assessee filed return of income u/s 139(4) of the Act on 07.03.2022 declaring total income of Rs.1,97,44,050/-. The Ld.AO noted that the assessee has received interest income of Rs.1,56,00,000/- during the Financial Year 2020-21 out of which Rs.

30,00,000/- was admitted as additional income in the return of income filed for AY 2021-22. The Ld.AO accordingly, completed the assessment proceedings for assessment year 2021-22 u/s. 143(3) of the Act framing an addition of Rs.1,26,00,000/- (Rs.1,56,00,000 minus Rs.30,00,000/-). The Ld.AO while completing the assessment proceedings, initiated penalty proceedings u/s 271AAD of the Act for the reason that the assessee omitted this entry in the books of accounts. This ultimately culminated in the passing of penalty order u/s. 271AAD of the Act on 29.06.2023 levying penalty of Rs.1,26,00,000/- on the ground that the assessee had willfully and deliberately omitted the interest income entry of Rs.1,26,00,000/- in his books of accounts which was detected only on account of scrutiny.

8.0 The Ld.CIT(A) deleted the levy of penalty of Rs.1,26,00,000/- by observing as under:

".. 6.3. Ground 3, 5 & 6

6.3.1 In these grounds, the appellant contends that the alleged omission of Rs.1.26 crores is merely a timing difference, as the amount was received and recorded in FY 2021-22, not FY 2020-21. The AO failed to consider the appellant's reply and levied penalty u/s 271AAD of the Act without proper opportunity or evidence, making the order unjust, based on assumptions, and contrary to law.

6.3.2 The undersigned has carefully examined the issue under consideration. As evident in the assessment order & the penalty order passed u/s 271 AAD of the Act, it is can be seen that the AO has proceeded on the presumption that the entire interest income of Rs.1.56 crore accrued to the appellant during the FY 2020-21 relevant to AY 2021-22. This presumption formed the basis for the addition of Rs.1.26 crore to the total income and the consequential penalty u/s 271AAD(1)(ii) of the Act. However, the appellant has categorically submitted and substantiated with

supporting documentary evidence, which included the ledger copies and bank records to substantiate the fact that only Rs.30 lakhs was actually received and recorded during FY 2020-21 relevant to AY 2021-22, and the balance Rs.1.26 crore was received and accounted for in the subsequent FY 2021-22 relevant to AY 2022-23.

6.3.3 As evident in the assessment order and the penalty order passed u/s 271AAD of the Act, the AO has not brought on record any corroborative evidence to establish that the appellant was, in fact, entitled to or had received the amount of Rs.1.26 crore during FY 2020-21 relevant to AY 2021-22, the year under consideration. In the absence of such material, the allegation of omission in the books of accounts remains unsubstantiated. The appellant has also clarified that the interest income was accounted for on a receipt basis, which is a recognized and permissible method of accounting under the Income Tax Act. Unless and until the AO demonstrates that the method of accounting adopted is inconsistent or leads to distortion of true income, the same ought to be accepted.

6.3.4 At this juncture it is imperative to understand that the provisions of Section 271AAD of the Act, which is a stringent penal provision introduced with the intent to deter fraudulent practices in maintenance of books of accounts, such as false entries or deliberate omissions that affect computation of income and are made with a clear intent to evade tax. The relevant section is reproduced here for better understanding...”

9.0 Before us, the Ld. DR was not able to controvert any of the factual findings reproduced herein above. The assessee has been offering the interest of income on cash basis. The addition of Rs.1,26,00,000/- was made by the Ld.AO on accrual basis, ignoring the fact that the assessee had in fact not received the said sum in assessment year 2021-22. Accordingly, the said sum of Rs.1,26,00,000/- stood not reflected in the books of account of the assessee. Hence there is neither any false entry nor any omission made by the assessee in his books of account

qua the interest income of Rs.1,26,00,000/-. Hence we hold that the Ld.CIT(A) had rightly deleted the levy of penalty.

10.0 In view of the aforesaid elaborate factual and legal observations made by him in his order, the grounds raised by the revenue in ITA No.2139/Chny/2025 are dismissed.

11.0 In the result, both the appeals of the revenue are dismissed.

Order pronounced in the court 24th , October, 2025 at Chennai.

Sd/-

(एसएसविश्वनेत्ररवि)

(S.S. VISWANETHRA RAVI)

न्यायिकसदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai, दिनांक/Dated 24th , October 2025

Sd/-

(एम.बालगणेश)

(M. BALAGANESH)

लेखासदस्य/**ACCOUNTANT MEMBER**

KB/-

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF