

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'G' BENCH,  
NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER, AND  
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No. 4172/DEL/2025 [A.Y 2016-17]  
ITA No. 4173/DEL/2025 [A.Y 2018-19]  
ITA No. 4174/DEL/2025 [A.Y 2017-18]  
ITA No. 4175/DEL/2025 [A.Y 2019-20]

The Dy. Cl.T.  
Delhi  
New Delhi

Vs.

Ajay Vision Education [P] Ltd  
1/8, Apsara Arcade, Pusa Road  
Karol Bagh, New Delhi

PAN: AALCA 5895 M

(Appellant)

(Respondent)

Assessee By : Shri Himanshu Gupta, CA  
Department By : Shri Manish Gupta, Sr. DR

**Date of Hearing : 28.10.2025**  
**Date of Pronouncement : 10.11.2025**

**ORDER**

**PER NAVEEN CHANDRA, AM :-**

The above captioned four appeals by the Revenue are directed against four separate orders of the Id. CIT(A), Delhi dated 30.03.2025 for A.Y 2016-17 u/s 271(1)(c) of the Income-tax Act, 1961 [the Act, for

short] and u/s 270A for A.Ys u/s 2018-19, 2017-18 and 2019-20 respectively.

2. Since these appeals pertain to same assessee and involve common issues, they were heard together and are disposed of by this common order for the sake of convenience and brevity.

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3. The sum and substance of the grievance of the Revenue is that the ld. CIT(A) erred in deleting the penalty levied by the Assessing Officer u/s 271(1)(c) of the Act on the ground that the Assessing Officer has not specified the charge in the show cause notice issued u/s 274 r.w.s 271 of the Act.

4. The roots for levy of penalty lie in the assessment order dated 30.03.2023 for AY 2016-17 framed u/s 147 r.w.s 143(3) of the Act by which the unrecorded cash income to the tune of Rs. 98,59,655/- was disallowed for penalty purpose and added to the income of the assessee.

5. The entire quarrel in all these four appeals of the Revenue revolves around the penalty notice, which according to the assessee, does not specify the limb under which the penalty is levied. The penalty orders were challenged by the assessee before the ld. CIT(A) and the

ld. CIT(A), vide appellate order dated 30.03.2025 came to the conclusion that the penalty levied by the Assessing Officer cannot be sustained either on legal grounds, jurisdictional grounds or on merits and allowed the appeal of the assessee.

6. The ld. counsel for the assessee relied upon the orders of the ld. CIT(A) whereas the ld. DR relied upon the penalty order and contended that the additions were made on the basis of search and relied on the decision of the Hon'ble Supreme Court in the case of *Prasanna Duggar* 373 ITR 681 wherein the hon'ble court dismissed the SLP filed against the Calcutta High Court in 371 ITR 19(Cal).

7. The representatives of both the sides were heard at length, the case records carefully perused. We find that the notice u/s 274 r.w.s 271(1)(c) of the Act which was issued and served upon the assessee read as under:

*"Notice under section 274 read with section 271(1)(c) of the Income Tax Act, 1961*

*Sir Madam*

*Whereas in the course of proceedings before me for the Assessment Year 2016-17, It appears to me that you have concealed the particulars of income. You are hereby requested to appear before me either personally or through a duly authorised representative at 11:00 AM on 05/05/2023 and show cause why an order imposing a penalty on you should not be made under section 271(1)(c) of the Income Tax Act, 1961. If you do not wish to avail yourself of this opportunity of being heard in person or through authorised representative, you may show cause in writing on or before the said date which will be considered before any such order is made under section 271(1)(c) of the Income Tax Act, 1961.*

8. On such facts the CIT(A) deleted the penalty holding as under:

#### 4.2.12 Issue of Notice:

4.2.12.1 *The Assessing Officer has issued notice u/s 274 proposing for levy of penalty for concealment of particulars of income. From the reading of the assessment order paragraph No.15, the Assessing Officer disallowed the amount which is already been a part of the returned income. For the immediate reference, the relevant paragraph is reproduced below:-*

*“15. "The assessee company filed its reply and stated that the unrecorded cash income to the tune of Rs, 98,59,655/- has already included in its ITR in response to notice u/s 148 of the IT Act, 1961. Therefore, the said income amounting to Rs. 98,59,655/- are hereby disallowed for penalty purpose as the assessee added the same in its total income for the year under consideration ie. AY 2016-17.*

*16. In view of the above facts, I am also satisfied that the assessee has concealed his income to the tune of Rs. 98,59,655/- within the meaning of section 271(1)(c) of the Income Tax Act. 1961. Accordingly, penalty proceedings w/s 271(1)(c) are being initiated separately”.*

4.2.12.2 *The fascinating fact is that the Assessing Officer has disallowed the taxable amount included in the return for the purpose of penalty is a new beginning for the strangest interpretation of the tax jurisprudence in invoking the penal provisions. Be that as it may, the Assessing Officer after "disallowing" the amount, initiated proceedings for concealment. If at all, any amount disallowed, at the most invite penalty for furnishing inaccurate particulars of income. To that extent, the notice issued by the Assessing Officer suffers from insufficiency of charge proposed and leviable. The difference between 'concealment' and 'furnishing of inaccurate particulars of income has been well analysed in the case of CIT Vs. Indian Metals and Ferro Alloys Ltd. by the Hon'ble High Court of Orissa, ITA no. 211/Orissa/1995. It was held that the expression "concealed the particulars of income" and 'has furnished inaccurate particulars of income have not been defined either in Section 271(1)(c) or elsewhere in the Act. One thing is certain that these two circumstances are not identical in detail although they may lead to the same effect, namely, keeping off a certain portion of*

*income. The former is direct and the latter may be indirect in its execution. The word "conceal" is derived from the Latin concealere which implies to hide. It was held that the Webster in his New International Dictionary equates its meaning to hide or withdraw from observation, to cover or to keep from sight, to prevent the discovery of; to withhold knowledge of. The offence of 'concealment' is thus a direct attempt to hide an item of income or portion thereof from the knowledge of income-tax authorities. In furnishing its return of income an assessee is required to furnish particulars and accounts on which the return income has been arrived at. These may be particulars as per its books of account, if he has maintained them, or any other basis upon which it had arrived at the returned figure of income. Any 'inaccuracy' made in such books of account or otherwise which resulted in keeping off or hiding a portion of its income is punishable as "furnishing inaccurate particulars of its income"*

9. The CIT(A) relied on the decision of Delhi High Court in the case of *Pr. CIT. Neeraj Jindal* (2022) wherein it held that penalty under section 271(1)(c) cannot be levied simply because income was disclosed in a 132(4) proceeding if the assessee voluntarily discloses it during the assessment. The court emphasized that for a penalty, there must be clear evidence of an attempt to conceal. The CIT(A) also relied on the decision of *CIT v. Mahendra C. Shah* (2008) of Gujarat High Court wherein it was held that penalty cannot be levied if income is offered under section 148/153A. The Gujarat High Court held that where an assessee voluntarily discloses income during search and the income is accepted without further

investigation, it cannot be concluded that there was concealment. The court opined that the purpose of disclosure in response to section 153A notice is to provide a fair opportunity to the assessee, and if income is voluntarily disclosed, penalties should not apply.

10. We are of the considered view that in the given factual matrix, there is no reason to interfere with the decision of the CIT(A). Accordingly, we direct the AO to delete the penalty. The grounds of appeal are dismissed.

**ITA No. 4173/DEL/2025 [A.Y 2018-19]**

**ITA No. 4174/DEL/2025 [A.Y 2017-18]**

**ITA No. 4175/DEL/2025 [A.Y 2019-20]**

11. The above three appeals are against the penalty order u/s 270A of the Income Tax Act. The CIT(A) has dealt with issue as under:

**4.2.7** *At the outset, it was submitted that notice issued u/s 274 r.w.s. 270A of the Act was defective as the Assessing Officer has not specified correct limb of section as to whether it is 'under reporting or mis-reporting' of income.*

*The notice dated 10.01.2023 issued by the Assessing Officer reads as under:-*

*"Whereas in the course of proceedings before me for the Assessment Year 2018-19, it appears to me that you have under-reported income which is in consequence of misreporting thereof.*

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*You are hereby requested to appear before me either personally or through a duly authorised representative at 11:00 AM on 31/01/2023 und show cause why an order imposing a penalty on you should not be made under section 270A of the Income Tax Act, 1961. If you do not wish to avail yourself of this opportunity of being heard in person or through authorised representative, you may show cause in writing on or before the said date which will be considered before any such order is made under section 270A of the Income Tax Act, 1961"*

*4.2.8 It is also found that the Assessing Officer has not specified relevant limb of the section even in the Assessment Order. The Assessment Order reads as under:*

*"Penalty proceedings u/s 270A are initiated separately by issue of statutory notice."*

12. A perusal of the aforementioned notice u/s 270A clearly shows that the Assessing Officer did not specify under which limb of the provision he has initiated the proceedings, whether for mis-reporting or under-reporting. This is a legal requirement as the penal proceedings being separate from assessment proceedings, it is incumbent upon the Assessing Officer to demonstrate under which limb he is proposing to levy of penalty while initiating penalty proceedings u/s 270A of the Act. We find in the instant case, the notice u/s 270A also does not specify the transgression of specific provisions u/s 270A (2) or 270A(9). We are of the considered view that there is no reason to interfere with the decision of the CIT(A).

13. On identical circumstances, the Hon'ble High Court of Delhi in the case of *Sahara India Life Insurance Company Ltd* ITA No. 475 of 2019

order dated 02.08.2019 has, though in the context of penalty provisions

u/s 271(1)(c), held as under:

"21. The Respondent had challenged the upholding of the penalty imposed under Section 271(1)(c) of the Act, which was accepted by the ITAT. It followed the decision of the Karnataka High Court in CIT v. Manjunatha Cotton & Ginning Factory 359 ITR 565 (Kar) and observed that the notice issued by the AO would be bad in law if it did not specify which limb of Section 271(1)(c) the penalty proceedings had been initiated under i.e. whether for concealment of particulars of income or for furnishing of inaccurate particulars of income. The Karnataka High Court had followed the above judgment in the subsequent order in Commissioner of Income Tax v. SSA's Emerald Meadows (2016) 73 Taxman.com 241 (Kar), the appeal against which was dismissed by the Supreme Court of India in SLP No. 11485 of 2016 by order dated 5th August, 2016."

14. When the notice u/s 270A is read with the decision of the Hon'ble High Court of Delhi [supra], in our considered opinion, the penalty will not survive. It would not be out of place to refer to the decision of the Hon'ble High Court of Delhi in the case of *Virgo Marketing Pvt Ltd* [2008] 171 Taxmann 156 [Delhi] wherein the Hon'ble High Court held as under:

"We are unable to discern from a reading of the assessment order why the Assessing Officer chose to initiate penalty proceedings against the assessed and under which part of [Section 271\(1\)\(c\)](#) of the Act. In other words, we are unable to discern from the assessment order the reason for initiating penalty proceedings. Therefore, the concurrent view held by both the authorities below must be accepted."

15. Further, the Hon'ble Supreme Court in the case of *SSA's Emerald Meadows Pvt Ltd* [2016] 8 TMI 1145, while confirming the Karnataka High Court order in [2015] (11) TMI 1620, has held that notice issued by the Assessing Officer u/s 274 r.w.s 271(1)(c) of the Act to be bad in law as it did not specify which limb of section 271(1)(c) of the Act the penalty proceedings had been initiated i.e. whether for concealment of particulars of income or furnishing of inaccurate particulars of income.

16. Considering the facts of the case in totality, in the light of judicial decisions referred to hereinabove, we uphold the findings of the Id. CIT(A) and direct the Assessing Officer to delete the penalty for all the three years. The grounds of appeal are dismissed.

ITA No. 4172/DEL/2025 [A.Y 2016-17]

ITA No. 4173/DEL/2025 [A.Y 2018-19]

ITA No. 4174/DEL/2025 [A.Y 2017-18]

ITA No. 4175/DEL/2025 [A.Y 2019-20]

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17. In the result, all the appeals of the Revenue in ITA Nos. 4172 to 4175/DEL/2025 are dismissed.

Order pronounced in open court on 10.11.2025.

Sd/-

**[SATBEER SINGH GODARA]  
JUDICIAL MEMBER**

Sd/-

**[NAVEEN CHANDRA]  
ACCOUNTANT MEMBER**

Dated : 10<sup>th</sup> NOVEMBER, 2025.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

Sl No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	
2.	<i>Date on which the typed draft Tribunal Order is placed before the Dictation Member</i>	
3.	<i>Date on which the typed draft Tribunal Order is placed before the other Member</i>	
4.	<i>Date on which the approved draft Tribunal Order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Tribunal Order is placed before the Dictating Member for pronouncement</i>	
6.	<i>Date on which the signed order comes back to the Sr. P.S./P.S</i>	
7.	<i>Date on which the final Tribunal Order is uploaded by the Sr. P.S./P.S. on official website</i>	
8.	<i>Date on which the file goes to the Bench Clerk alongwith Tribunal Order</i>	
9.	<i>Date of killing off the disposed of files on the judiSIS portal of ITAT by the Bench Clerks</i>	
10.	<i>Date on which the file goes to the Supervisor (Judicial)</i>	
11.	<i>The date on which the file goes for xerox</i>	
12.	<i>The date on which the file goes for endorsement</i>	
13.	<i>The date on which the file goes to the Superintendent for checking</i>	
14.	<i>The date on which the file goes to the Assistant Registrar for signature on the Tribunal order</i>	
15.	<i>Date on which the file goes to the dispatch section</i>	
16.	<i>Date of Dispatch of the Order</i>	