

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 2245/CHNY/2025
निर्धारण वर्ष/Assessment Year: 2016-17

**Shri Abdul Jabbar Jaheer
Husain,**
No.17/73, Pillayar Koil Street,
Ayapakkam,
Chennai – 600 077.

The Income Tax Officer,
Vs. Non-Corporate Ward 8(2),
Chennai.

PAN: ADOPJ 8688E

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri V. Padmanaban, CA
: Ms. Gouthami Manivasagam, JCIT

सुनवाई की तारीख/Date of Hearing : 13.11.2025
घोषणा की तारीख/Date of Pronouncement : 14.11.2025

आदेश/ ORDER

PER GEORGE GEORGE K, VICE PRESIDENT:

This appeal filed by the assessee is directed against the order of Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi dated 30.06.2024, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2016-17.

2. The solitary issue that is raised is whether the First Appellate Authority (FAA) is justified in confirming the penalty levied u/s.271(1)(c) of the Act amounting to Rs.4,62,819/-.

3. Brief facts of the case are as follows: The assessee is an individual. For the assessment year 2016-17, return of income was filed on 30.03.2018. In the return of income filed, assessee had disclosed profit and loss from business or profession of Rs.1,46,560/-, Long Term Capital Gain of Rs.15,33,315/- and income from other sources of Rs.15,344/-. The assessment was selected for limited scrutiny to examine the claim of deduction / exemption u/s.54F of the Act. The assessee in the return of income had claimed exemption u/s.54B of the Act. The AO during the course of assessment proceedings noticed the mistake committed by the assessee in the return of income filed and had examined the claim of deduction with reference to section 54F of the Act. The claim of deduction made by the assessee in the return of income was Rs.2,67,72,584/-. Since, assessee was not able to provide necessary evidence in respect of expenditure incurred for the claim of deduction u/s.54F of the Act, the AO completed the assessment u/s.143(3) of the Act on 30.12.2018 disallowing the claim of deduction u/s.54F of the Act. Aggrieved by the assessment completed by disallowing the claim of

disallowance u/s.54F of the Act, assessee filed appeal before the FAA. Before FAA, assessee furnished additional evidence in support of his claim of exemption u/s.54F of the Act. The FAA called for a remand report from the AO and subsequent to the receipt of remand report, the FAA passed the order on 14.09.2020 by allowing deduction u/s.54F of the Act of Rs.2,45,35,893/- (the claim of deduction u/s.54F by the assessee was Rs.2,67,72,584/- and 'nil' was granted by the AO).

4. In the meanwhile, penalty u/s.271(1)(c) of the Act was initiated and notice u/s.274 of the Act was issued on 30.12.2018. During the course of penalty proceedings, it was contended by the assessee that he had not concealed any particulars of his income. It was stated that assessee had overstated the sale consideration at Rs.3,25,00,000/- instead of Rs.2,81,15,861/-/- culled out by the AO at para 4.2 of the assessment order. It was submitted that builder / joint venture had not provided the requisite information to the assessee and has even not responded to the notices of the AO, which is explicit in the remand report of the AO at para 5.3.7 of the appellate order passed u/s.250 of the Act. Therefore, it was contended that assessee has not concealed any particulars or has furnished any inaccurate particulars of income and the penalty notice may be dropped. The AO, however rejected the

contentions of the assessee and held that assessee had furnished inaccurate particulars of his income by overstating the exemption claimed u/s.54F of the Act. The AO accordingly levied penalty of Rs.4,62,819/- being 100% of the tax sought to be evaded.

5. Aggrieved by the order of the AO imposing penalty u/s.271(1)(c) of the Act, assessee filed appeal before the First Appellate Authority (FAA). The FAA by placing reliance on Explanation 1 to section 271(1)(c) of the Act held that in the instant case, the assessee's explanation is not bonafide. It was concluded by the FAA that assessee has furnished inaccurate particulars of income by overstating the deduction claimed u/s.54F of the Act.

6. Aggrieved by the order of the FAA, assessee has filed the present appeal before the Tribunal. Assessee has filed a statement of expenditure with reference to architectural and interior work carried out and the total expenditure denied by the FAA. By referring to the statement, the Ld.AR submitted that out of the total expenditure incurred only for 8.4% of expenditure, assessee could not produce the bills since these were vouchers such as painting work undertaken, etc. It was submitted that these details were called in the course of remand proceedings

during the Covid period and same could not be obtained due to lapse of time. The Ld.AR by relied on the judgment of the Hon'ble Apex Court in the case of CIT vs. Reliance Petroproducts Pvt. Ltd., reported in (2010) 322 ITR 158 and the order of the Ahmedabad Bench of the Tribunal in the case of ITO vs. Ashif Mehbbohelahi Rushnaiwala in ITA No.329/Ahd/2020 (order dated 22.06.2022) in support of his contention that penalty u/s.271(1)(c) of the Act is not leviable on the facts of instant case.

7. The Ld.DR has filed brief written submission. The Ld.DR relied on the judgment of Hon'ble Delhi High Court in the case of CIT vs. Zoom Communication Pvt. Ltd., reported in 327 ITR 510 in support of her contention that mere non-availability of bill does not make the claim allowable. The Ld.DR further contended that assessee had made bogus / unsubstantiated claim of exemption / deduction and thereby the assessee satisfies under both limb u/s.271(1)(c) of the Act namely concealment of income and furnishing inaccurate particulars of income. Therefore, it was contended that penalty imposed u/s.271(1)(c) of the Act may be confirmed.

8. We have heard rival submissions and perused the material available on record. The assessee in the return of income filed

had claimed deduction u/s.54F of the Act amounting to Rs.2,67,72,584/- while computing the Long Term Capital Gains. In the assessment order completed, the claim of deduction u/s.54F of the Act was denied since the assessee had not produced the necessary evidence to substantiate the expenditure incurred. During appellate proceedings, the CIT(A) on the basis of additional evidences and remand report filed by the AO, allowed deduction u/s.54F of the Act to the extent of Rs.2,45,35,893/-. Thus, the deduction u/s.54F was reduced by a sum of Rs.22,36,691/-.

9. Penalty u/s.271(1)(c) of the Act was imposed on account of excess claim made u/s.54F of the Act. The CIT(A) in the quantum assessment had reduced the claim of deduction u/s.54F of the Act by observing that out of the total claim of deduction u/s.54F of the Act, the assessee is not allowed to claim the amount of Rs.22,15,048/- as no bills have been furnished for which there is no supporting evidence. The assessee has furnished the details of expenditure for claiming the benefit of deduction u/s.54F of the Act. The portion of expenditure denied, amounting to Rs. 22,15,048/-, pertains to certain invoices for painting work and other odd jobs done. Out of the total expenditure claimed u/s.54F of the Act, disallowance constitute only roughly around

8%. Mere disallowance of claim in the assessment proceedings could not be a sole basis for levying penalty u/s.271(1)(c) of the Act. In the facts of the instant case, assessee had made a claim which could not be fully substantiated by bills/invoices. That by itself did not tantamount to furnishing inaccurate particulars of income. Hence, we delete the penalty of Rs.4,62,819/- imposed u/s.271(1)(c) of the Act. It is ordered accordingly.

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

Order pronounced in the open court on 14th November, 2025 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

(S.R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 14th November, 2025

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.