आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM "DIVISION" BENCH, VISAKHAPATNAM

(HYBRID HEARING)

श्री रवीश सूद ,न्यायिक सदस्य एवं श्री एस बालाकृष्णन,लेखा सदस्य के समक्ष
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

आयकर अपीलसं./**I.T.A.No.352/VIZ/2025**
(निर्धारण वर्ष/ **Assessment Year:2016-17)**

Dy. Commissioner of Income Tax International Taxation, Circle Ground Floor, Infinity Tower Sankarmattam Road Visakhapatnam – 530016 Andhra Pradesh	Vs.	**Venkata Sita Ramachandra Rao Kanchumarty** H.No. 26-22-16 Near Chinna Anjaneya Swamy Temple Danavaipeta, Rajahmundry East Godavari District – 533103 Andhra Pradesh **[PAN:EDZPK3519Q]**

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	None
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	29.10.2025
घोषणा की तारीख/Date of Pronouncement	:	07.11.2025

आदेश /O R D E R

PER SHRI S. BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the revenue against the order of Learned Commissioner of Income Tax (Appeals)-10, Hyderabad [hereinafter in short

"Ld.CIT(A)"] vide Appeal No. CIT(A)/HYD-10/10264/2015-16 dated 15.03.2025 for the A.Y.2016-17 arising out of order passed under section 271(1)(c) of Income Tax Act, 1961 (in short 'Act').

2. Brief facts of the case are that, assessee is an individual and Non-Resident Indian, during the A.Y. 2016-17 filed his return of income in response to notice under section 148 of the Act on 31.03.2018 admitting a total income of Rs.2,92,55,358/-. In response to notices under section 143(2) and 142(1) of the Act assessee's representatives filed requisite information called for. Ld.Assessing Officer [hereinafter in short "Ld. AO"] during the course of scrutiny proceedings recomputed the Long-Term Capital Gains at Rs.9,77,03,500/-. Being aggrieved by the order of the Ld. AO, assessee filed an appeal before Ld.CIT(A), Hyderabad, wherein he partly allowed the appeal of the assessee directing the Ld. AO to adopt the rates as specified in the order of the Ld. CIT(A). Thereafter, revenue went on appeal before Hon'ble ITAT which was dismissed. Ld. AO then passed a consequential order determining the Long-Term Capital Gains as directed by the Ld. CIT(A). Thereafter, Ld.AO initiated penalty proceedings under section 271(1)(c) of the Act by issuing show-cause notice dated 27.12.2018, 31.05.2021 and 21.06.2021. In response, assessee cited various judicial pronouncements wherein the Ld. AO has failed to mark the proper limb of section 271(1)(c) of the Act under which the penalty

was proposed. However, the Ld. AO found the objections as not tenable and levied penalty of Rs.80,34,539/- being 100% of the tax sought to be evaded.

3. On being aggrieved by the penalty levied by the Ld. AO, assessee carried the matter in appeal before Ld. CIT(A). Ld. CIT(A) while relying on various judicial pronouncements as detailed in his order, allowed the appeal of the assessee.

4. On being aggrieved by the order of the Ld. CIT(A), revenue is in appeal before us by raising seven (7) grounds of appeal: -

> *"1. The CIT(Appeals) erred both in law and on facts of the case in granting relief to the assessee.*
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> *2. On the facts and circumstances of the case and in law, whether the CIT(Appeals) is justified in treating the penalty proceedings u/s.271(1)(c) as illegal for not specifying the appropriate limb under which the AO intended to initiate the penalty proceedings, which is in violation of Sec.292B of the Income Tax Act, 1961 which categorically states that the notice shall not be invalid merely by reason of any mistake, defect or omission?*
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> *3. On the facts and circumstances of the case and in law, whether the CIT(Appeals) is justified in ignoring the fact that the assessee responded and represented in penalty proceedings, well aware of the issues and hence there is no prejudice caused as held by Hon'ble Bombay High Court in the case of M/s.Veena Estates Pvt Ltd Vs. CIT, Mumbai City-IX in Appeal No.302 of 2002 dated 11.01.2024 and Hon'ble Madras High Court in the case of M/s. Sundaram Finance Limited Vs. ACIT, Company Circle VI(4), Chennai (403 (TR 407)(Madras)?*
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> *4. On the facts and circumstances of the case and in law, whether the CIT(Appeals) is justified in holding that the penalty u/s.271(1)(c) is not leviable as the disallowance made is adhoc / estimated in nature without appreciating the fact that the addition was solely made in respect of specific amounts of claim of cost of acquisition and cost of improvement*

which are not adhoc in nature and in fact clearly falling in scope of 'inaccurate particulars of income' as defined by Hon'ble Supreme Court in the case of M/s. Reliance Petro ProductsPvt Ltd (322 ITR 158), as the claims in the return of income filed in response to notice u/s.148 are false?

5. On the facts and circumstances of the case and in law, whether the CIT(Appeals) is justified in holding that assessee being an NRI, has paid advance tax of Rs.10 lakhs, the property being ancestral for which the cost of acquisition and improvement is disputed, the addition was made by the AO on an estimate based on difference in valuation, the relief allowed by the CIT(A) and dismissal of further appeal by ITAT etc., the case is not for the AO to be treated as for levying penalty on merits, without appreciating the fact that all these factors have no relevance or bearing on the initiation or levy of penalty u/s.271(1)(c) of the Income Tax Act and in fact the other factors of not filing original return of income and claiming inaccurate expenses in the return of income filed in response to notice u/s 148 shows that the assessee's intention is to escape tax?

6. On the facts and circumstances of the case and in law, whether the CIT(Appeals) is justified in ignoring the fact that mens rea or intention of assessee has no relevance in civil penalties as laid by Hon'ble Supreme Court in the cases of Dharmendra Textile Processors (306 (TR 277) and M/s. Rajasthan Spg & Wvg Mills (180 taxman 609)?

7. Any other ground of appeal that may be raised with the prior approval of the Hon'bleITAT during the appellate proceedings."

5. The only issue contested by the revenue is with respect to treating of the penalty proceedings under section 271(1)(c) of the Act as illegal by the Ld.CIT(A) for not specifying the appropriate limb under which the Ld. AO intended to initiate the penalty proceedings. On this issue, Ld. Departmental Representative [hereinafter in short “Ld. DR”] heavily relied on the order of the Ld. AO and also furnished written submissions in support of the same.

6. On the other hand, none appeared on behalf of the assessee.

7. We have heard Ld. DR and perused the material available on record. It is an admitted and undisputed fact that the Ld. AO has not specified under which limb of the provision the penalty is proposed to be levied. Section271(1)(c) of the Act imposes penalty on two limbs firstly for "furnishing inaccurate particulars" and secondly for "concealment of income". However, the notices issued to the assessee do not specify the limb under which the penalty was proposed to be levied. Ordinarily, the two phrases i.e., "furnishing inaccurate particulars" and "concealment of income" are separate and distinct and carry different meaning and connotation. The penalty proceedings initiated by the revenue under section 271(1)(c) of the Act should be specific on the ground which foundation thereof, otherwise assessee would not have proper opportunity to put-forth his defence. The proceedings under section 271(1)(c) of the Act result in imposition of penalty 100% to 300% of the tax sought to be evaded and therefore the charge must be unequivocal and unambiguous. The revenue must specify as to which one of the limb has to be pressed into service and cannot be permitted to club both.

8. The Hon'ble Delhi High Court in the case of Pr.CIT *v.* Gragerious Projects *(*P) ltd., [2024] 169 taxmann.com 291 (Delhi) held as follows:

> *"INCOME TAX: Where penalty proceedings are initiated by revenue under section 271(1) (c), specific ground which forms foundation thereof needs to be spelt out in clear terms; in absence of specific charge for initiation of penalty proceedings, levy of penalty under section 271(1)(c) is not valid.*

Section 271(1)(c), read with section 274, of the Income-tax Act, 1961 - Penalty - For concealment of income (Vagueness of notice) - Assessee filed its return of income declaring certain loss - Assessing Officer disallowed claim of loss and made addition to income of assessee - He also initiated penalty proceedings under section 271(1)(c) for furnishing inaccurate particulars of income - Tribunal deleted penalty holding that penalty notice was vague as there was no specific charge for initiation of penalty proceedings which assessee could explain - Whether where penalty proceedings are said to be initiated by revenue under section 271(1) (c), specific ground which forms foundation thereof needs to be spelt out in clear terms - Held, yes - Whether where charges are either of concealment of particulars of income or furnishing of inaccurate particulars thereof, revenue must specify as to which one of two is sought to be pressed into service and cannot be permitted to club both - Held, yes-Whether therefore, in absence of specific charge for initiation of penalty proceedings, Tribunal rightly held that levy of penalty under section 271(1)(c) in case of assessee was not valid - Held, yes [Paras 21 and 23] [In favour of assessee]."

9. A Similar view has also taken by the Hon'ble Delhi High Court in the case of Pr.CIT *v.* Quippo telecom Infrastructure (P.). Ltd., [2025] 175 taxmann.com 503 (Delhi) and held as follows: -

"INCOME TAX: Where in penalty notice issued under section 271(1)(c) against assessee, it was not specified whether penalty proceedings were initiated for furnishing inaccurate particulars or for concealment of income, penalty proceedings were not sustainable.

Section 271(1)(c), read with section 274, of the Income-tax Act, 1961 - Penalty - For concealment of income (Validity of proceedings) - Assessment year 2010-11 - Assessee filed its return of income and Assessing Officer disallowed certain expenditure claimed by assessee for availing professional services and further disallowed a sum of certain amount on account of interest claimed by assessee under section 36(1)(iii) and made additions to income of assessee- He also directed for issuance of notice under section 271(1)(c) - He further levied penalty within band of 100 percent to 300 percent of said amount - It was noted that Tribunal noted that penalty under section 271(1)(c) could be imposed on two limbs, first, for furnishing incorrect particulars and second, for concealment of income - However, notice issued under section 271(1)(c) to assessee did

not specify limb under which penalty was proposed to be levied - Whether, therefore, penalty proceedings initiated pursuant to such notice were not sustainable- Held, yes [Paras 15 to 18] [In favour of assessee]"

10. The Hon'ble Bombay High Court in the case of Pr.CIT *v.* Times global Broadcasting Ltd., [2025] 172 taxmann.com 786 (Bombay) also expressed similar view with respect to imposition of penalty under section 271(1)(c) of the Act and held as follows: -

"INCOME TAX: Where penalty notice issued to assessee did not clarify whether penalty was proposed on grounds of concealment or furnishing inaccurate particulars, since assessee had no clear notice about case it was required to meet, penalty notice was invalid

Section 271(1)(c) of the Income-tax Act, 1961 - Penalty - For concealment of income (Validity of notice) - Assessment year 2010-11 - Whether since penalty notice issued under section 271(1)(c) to assessee did not clarify whether penalty was proposed to be imposed on grounds of concealment or furnishing inaccurate particulars and necessary box containing two options was not ticked, assessee had no clear notice about case it was required to meet and thus, impugned notice was invalid - Held, yes [Para 5] [In favour of assessee]"

11. The Hon'ble Supreme Court in the case of Pr.CIT *v.* Shyam Sunder Jindal [2024] 164 taxmann.com 503 (SC) has dismissed the SLP filed by the revenue and held as follows:

"INCOME TAX: SLP dismissed against order of High Court that where penalty notice issued against assessee did not advert to any specific limb of section 271(1)(c) and, thus, Assessing Officer was not clear whether he intended to levy a penalty on assessee for concealment of particulars of his income or furnishing inaccurate particulars, Tribunal was justified in quashing penalty proceedings under section 271(1)(c) initiated against assessee.

Section 271(1)(c) of the Income-tax Act, 1961 - Penalty - For concealment of income (Scope of) - Assessment years 2008-09 to 2011-12 - High Court held that where penalty notice issued against assessee did not advert to specific limb of section 271(1)(c) and, thus, Assessing Officer was not clear whether he intended to levy a penalty upon assessee for concealment of particulars of his income or furnishing inaccurate particulars, Tribunal was justified in quashing penalty proceedings under section 271(1)(c) initiated against assessee - Whether Since there was a gross delay of 202 days in preferring SLP against said order and explanation offered for said delay was also not satisfactory and neither was it sufficient in law to condone same, application seeking condonation of delay was to be dismissed and, consequently, Special Leave Petition was also to be dismissed on ground of delay - Held, yes [Paras 1 to 3] [In favour of assessee].”

12. Respectfully following the above judicial pronouncements, we have no hesitation to quash the penalty proceedings initiated by the Ld. AO without specifying the specific limb of section271(1)(c) of the Act under which the penalty sought to be levied. Accordingly, grounds raised by the revenue are dismissed.

13. In the result, appeal of the revenue is dismissed.

Order pronounced in the open court on 07th November, 2025.

Sd/-	**Sd/-**
(रवीश सूद)	**(एस बालाकृष्णन)**
(RAVISH SOOD)	**(S. BALAKRISHNAN)**
न्यायिक सदस्य/JUDICIAL MEMBER	**लेखा सदस्य/ACCOUNTANT MEMBER**

Dated:07.11.2025
Giridhar, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/ **Copy of the order forwarded to:-**

1.	निर्धारिती/ The Assessee	:	**Venkata Sita Ramachandra Rao Kanchumarty** H.No. 26-22-16, Near Chinna Anjaneya Swamy Temple Danavaipeta, Rajahmundry East Godavari District – 533103 Andhra Pradesh
2.	राजस्व/ The Revenue	:	**Dy. Commissioner of Income Tax** **International Taxation, Circle** Ground Floor Infinity Tower, Sankarmattam Road Visakhapatnam – 530016 Andhra Pradesh

3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam