

completed by the DCIT, Circle -1, Alappuzha (hereinafter called "the AO") vide order dated 31.12.2014 passed u/s. 143(3) of the Income Tax Act, 1961 (the Act) at a loss of Rs. 3,58,67,310/-. Subsequently, the AO formed an opinion that income escaped assessment to tax. Accordingly, a notice u/s. 148 was issued on 27.03.2019. In response to the notice u/s. 148, the appellant filed return of income on 18.09.2019 declaring loss of Rs. 3,71,34,545/-. Against the said return of income, the assessment was completed by the AO vide assessment order dated 23.12.2019 passed u/s. 143(3) r.w.s. 147 of the Act at total loss of Rs. 3,36,83,226/-. While doing so, the AO disallowed the loss on account of foreign currency transaction of Rs. 21,84,084/-. The said assessment order attained finality as the appellant had chosen not to contest further. The AO had initiated penalty proceedings u/s. 274 r.w.s. 271(1)(c) of the Act vide show cause notice dated 30.12.2019 for furnishing inaccurate particulars of income. In response to the show cause notice, the appellant filed explanation and the same was rejected by the AO and proceeded with levy of penalty of Rs. 6,74,882/- u/s. 271(1)(c) of the Act vide order dated 17.03.2022.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order confirmed the action of the AO placing reliance on the decision of the Hon'ble Supreme Court in the case of CIT v. Gold Coin Health Food (P) Ltd.

4. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

5. The learned counsel for the assessee submits that mere addition does not entail levy of penalty. Penalty cannot be imposed for furnishing inaccurate particulars.

6. On the other hand, the learned Sr. DR submits that in the case of reassessment penalty u/s. 271(1)(c) is automatic in view of Explanation (5a) to section 271(1)(c) of the Act.

7. We have heard the rival contentions and perused the material available on record. The issue that arises in the present appeal is whether the order imposing penalty u/s. 271(1)(c) is justified or not. Penalty proceedings were initiated on account of disallowance of loss on account of foreign currency transaction of Rs. 21,84,084/-. The mere fact that the additions were made to the returned income by disallowing certain deductions by itself does not lead to the conclusion that the assessee concealed particulars of income or furnished incorrect particulars of income and provisions of section 271(1)(c) is not attracted. Reliance in this regard is placed on the decision of the Hon'ble Supreme Court in the case of CIT v. Reliance Petroporducts Pvt. Ltd. [2010] 322 ITR 158. Relevant portion of the judgement is extracted below: -

“ It was tried to be suggested that section 14A of the Act specifically excluded the deductions in respect of the expenditure incurred by the assessee in relation to income which does not form part of the total income under the Act. It was further pointed out that the dividends from the shares did not form the part of the total income. It was, therefore, reiterated before us that the Assessing Officer had correctly reached the conclusion that since the assessee had claimed

excessive deductions knowing that they are incorrect; it amounted to concealment of income. It was tried to be argued that the falsehood in accounts can take either of the two forms; (i) an item of receipt may be suppressed fraudulently; (ii) an item of expenditure may be falsely (or in an exaggerated amount) claimed, and both types attempt to reduce the taxable income and, therefore, both types amount to concealment of particulars of one's income as well as furnishing of inaccurate particulars of income. We do not agree, as the assessee had furnished all the details of its expenditure as well as income in its Return, which details, in themselves, were not found to be inaccurate nor could be viewed as the concealment of income on its part. It was up to the authorities to accept its claim in the Return or not. Merely because the assessee had claimed the expenditure, which claim was not accepted or was not acceptable to the revenue, that by itself would not, in our opinion, attract the penalty under section 271(1)(c). If we accept the contention of the revenue then in case of every Return where the claim made is not accepted by Assessing Officer for any reason, the assessee will invite penalty under section 271(1)(c). That is clearly not the intendment of the Legislature.”

8. In view of the above discussion, we are of the considered opinion that the facts of the present case does not warrant levy of penalty u/s. 271(1)(c) of the Act.

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

Order pronounced in the open court on 20th November, 2025.

Sd/-

(MANU KUMAR GIRI)
JUDICIAL MEMBER

Cochin, Dated: 20th November, 2025

Sd/-

(INTURI RAMA RAO)
ACCOUNTANT MEMBER

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar
ITAT, Cochin