

IN THE INCOME TAX APPELLATE TRIBUNAL, RANCHI BENCH, RANCHI

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER

I.T.A. No. 15/Ran/2025

(Assessment Year-2016-17)

M/s Nandlal Keshardeo, Suresh Babu Street, Upper Bazar, Ranchi-834001. (Jharkhand) PAN No. AABFM 5735 B	Vs.	A.C.I.T., Central Circle-1, Ranchi.
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	Shri R.R. Mittal, C.A.
Department represented by	Shri Khubchand T. Pandya, Sr.DR
Date of hearing	09/10/2025
Date of pronouncement	09/10/2025

ORDER

PER: BENCH

1. This appeal by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals), NFAC, Delhi [in short, the Id. CIT(A)] dated 25/11/2024 for the Assessment Year (AY) 2016-17.
2. Shri R.R. Mittal, Id. AR is represented on behalf of the assessee and Shri Khubchand T. Pandya, Id. Sr. DR represented on behalf of the revenue.
3. Rival submissions of both the parties have been heard and record perused. At the outset of hearing, the Id. AR of the assessee submits that in the grounds of appeal, the assessee has claimed that the Id. CIT(A) erred in confirming the order passed by the Id. ACIT, Central Circle-1, Ranchi, based on defective notice u/s 274 of the Act and further erred in not following the precedence of the predecessor CIT(A) as also in not following the directions of the jurisdictional Tribunal as well as the Hon'ble Supreme Court of India.

4. The facts of the case are that a search operation was conducted under Section 132(1) of the Income tax Act, 1961 (in short, the Act) in the case of M/s Nani Steel Group of cases located at Ranchi on 22/07/2015 during which the assessee offered undisclosed income in the statement recorded u/s 132(4) of the Act and paid the due taxes while filing return in response to notice u/s 153A. The assessee admitted the allegation of the AO regarding certain manipulation in the transaction of shares to earn long term capital gains to buy peace and the return of income was also accepted by the AO. Subsequently, notice u/s 274 of the Act was issued for initiation of penalty u/s 271AAB of the Act. The AO finally imposed the penalty which was upheld by the Id. CIT(A).
5. Before the Id.CIT(A),the assessee claimed that the AO in the show cause notice for levying penalty did not specifically point out as to whether the penalty was in respect to Section 271(1)(c) or u/s 271AAB and on this very ground the show cause notice was claimed to be defective and no penalty could be imposed. The Id.CIT(A),however, rejected the contention of the assessee and held that mere not striking off of one limb in the show cause notice issued u/s 274 of the Act will not invalidate the whole penalty order.
6. Before us, the Id. AR of the assessee appeared and filed a written submissions. In the written submission, it has claimed that during assessment proceedings u/s 153A, all the details were provided to the Id. AO and no adverse inference was drawn while accepting the return of income. No fact has been brought on record to prove that any concealment has been made or inaccurate particulars have been submitted. The assessee had filed written submission along with copy of penalty notices issued under Section 274 r.w.s. 271AAB of the Act. It is

further submitted that the notice issued u/s 274 of the Act for the initiation of penalty by the Id. AO is defective in as much as the said notice did not specifically state as to whether it was under Section 271(1)(c) or under Section 271AAB of the Act. The assessee has placed reliance on various case laws in support of the contention that if certain show cause notice of penalty in printed form was issued u/s 274 without pointing the relevant default, initiation of penalty proceedings on one limb while finding the assessee guilty in another limb is bad in law as held in the case of CIT & Anr. vs. Manjunatha Cotton & Ginning Factory 359 ITR 565 (Kar.) It is further contended the Hon'ble Supreme Court in the case of in SSA's Emeralds Meadows vs. CIT 242 taxmann 180 on similar facts has held there was no substantial question of law and dismissed the SLP of the Department with regard to the above penalty proceedings.

7. The learned Sr. DR has relied on the orders of lower authorities holding that penalty was rightly initiated and imposed.
8. We have carefully considered the rival submissions, contents of the penalty order, appellate orders, provisions of the Act in this regard as also the relevant case laws. It may be stated here that similar issue has already been dealt with by the Coordinate Bench of this Tribunal in its decision in the case of Shri Sanjay Kumar Sharda vs ACIT for Assessment Year 2016-17 in ITA No.282/Ran/2019 dated 16/07/2020. In this case also, the assessee contested penalty order u/s 271AAB on alleged defective notice issued u/s 274 of the Act. The Bench after taking note of the facts of the case and proposition of law as

emerging from cited decisions above, cancelled all the penalty orders. The operative part of the order is reproduced as below for ready reference:-

"3. We proceed in this backdrop of facts to note that this tribunal's coordinate bench's decision in Shri Ashok Bhatia vs. DCIT; ITA No.869/Ind/2018 dated 05.02.20 holds that such a penalty show-cause notice not quoting specific limb of impugned penal provision is invalid as under:

"5 Ld. Counsel for the assessee submitted that before levying the penalty u/s 271AAB of the Act Ld. A.O has to issue notice u/s 274 of the Act, as provided in Section 271AAB(3) of the Act. In the notice issued to the assessee there is no mention about the various conditions provided u/s 271 AAB of the Act relating to levy of penalty @ 10% or 20% or 30% (as the case may be). Nothing is specified in the notice about Clause-a, b & e of Section 271AAB of the Act as to at what percentage the penalty will be levied on the assessee for the undisclosed income not surrendered during the course of search. The assessee deserves an opportunity to plead before the Ld. A.O before being visited with the penalty u/s 271AAB of the Act. The alleged notice issued u/s 274 rws 271AAB of the Act is liable to be quashed since there is a technical defect in issuing the notice. Reliance placed on the decision of Co-ordinate Bench, Chennai in the case of DCIT Vs. R. Elangovan 1199/CHNY/2017 order dated 05.04.2018 which has also been followed by Jaipur Bench of Tribunal in the case of Ravi Mathur Vs. DCIT, ITA No. 969/JP/2017 laying down the proposition that show cause notice issued u/s 274 of the Act without drawing requisite levy of penalty u/s 271AAB of the Act is a defective notice and is liable to be quashed.

6. Per contra Ld. Departmental Representative vehemently argued supporting the orders of lower authorities and also submitted that the legal issue raised by the assessee is liable to be dismissed since in the notice issued u/s 274 of the Act the Ld. A.O has specifically mentioned the section 271AAB of the Act and it may have been a clerical error on the part of the Ld. AO to use the same proforma as used for issuing notice u/s 274 r.w.s. 271(1)(c) of the Act. On merits the assessee has no case since the alleged addition was not surrendered during the course of search, not included in the income tax return and taxes not paid and such undisclosed income has rightly been penalized @30% as per the provisions of Section 271 AAB(c) of the Act. La Departmental Representative strongly relied on the judgment of Hon'ble Allahabad High Court in the case of Pr. CIT vs. Sandeep Chandak (2018) 405 ITR 648. This judgment of Hon'ble Allahabad High Court stands confirmed by Hon'ble Supreme Court also.

7. We have heard rival contentions and perused the records placed before us. The legal issue before us is that whether the notice issued u/s 274 r.w.s. 271AAB of the Act suffers from fatal error and technical defect thereby not providing an opportunity to the assessee to plead his case. Since the legal ground goes to be root cause of the issue levying penalty u/s 271AAB of the Act, we in view of the ratio held by the Hon'ble Apex Court in the case of National Thermal Power Company Limited (supra) admit the additional legal ground for adjudication. For levying penalty u/s 271AAR of the Act the Ld. A.O needs to primarily issue notice u/s 274 of the Act so for initiating proceedings u/s 271AAB of the Act the Ld. A.O has to first pass through the hurdle of Section 274 of the Act. For better understanding we reproduce the provisions of Section 271AAB and 274 of the Act which reads as follows:-Section 271AAB of the Act.

271AAB. Penalty where search has been initiated-(1) The Assessing Officer may, notwithstanding anything contained in any other provisions of this Act, direct that, in a case where search has been initiated under section 132 on or after the 1st day of

July, 2012, the assessee shall pay by way of penalty, in addition to tax, if any, payable by him,----

(a) a sum computed at the rate of ten per cent of the undisclosed income of the specified previous year, if such assessee-

(i) in the course of the search, in a statement under sub-section (4) of section 132, admits the undisclosed income and specifies the manner in which such income has been derived;

(ii) substantiates the manner in which the undisclosed income was derived, and

(iii) on or before the specified date---

(A) pays the tax, together with interest, if any, in respect of the undisclosed income: and (B) furnishes the return of income for the specified previous year declaring such undisclosed to come therein.;

(b) a sum computed at the rate of twenty per cent of the undeclared income of the specified previous year, if such assessee--

(i) in the course of the search, in a statement under sub-section (4) of section 132, does not admit the undisclosed income, and

(ii) on or before the specified date-

(A) declares such income in the return of income furnished for the specified previous year, and (B) pays the tax, together with interest, if any, in respect of the undisclosed income.

(c) a sum which shall not be less than thirty per cent but which shall not exceed ninety per cent of the undisclosed income of the specified previous year, if it is not covered by the provisions of clauses (a) and

(b)

(2) No penalty under the provisions of clause (c) of sub-section (1) of section 271 shall be imposed upon the assessee in respect of the undisclosed income referred to in sub-section (1)

(3) The provisions of sections 274 and 275 shall, as far as may be, apply in relation to the penalty referred to in this section. Explanation-For the purposes of this section,--

(a) "specified date" means the due date of furnishing of return of income under sub-section (1) of section 139 or the date on which the period specified in the notice issued under section 153A for furnishing of return of income expires, as the case may be;

(b) "specified previous year" means the previous year-

(i) which has ended before the date of search, but the date of furnishing the return of income under sub-section (1) of section 139 for such year has not expired before the date of search and the assessee has not furnished the return of income for the previous year before the date of search, or

(ii) in which search was conducted,

(c) "undisclosed income" means--

(i) any income of the specified previous year represented, either wholly or partly, by any money, bullion, jewellery or other valuable article or thing or any entry in the books of account or other documents or transactions found in the course of a search under section 132, which has--

(A) not been recorded on or before the date of search in the books of account or other documents maintained in the normal course relating to such previous year, or

(B) otherwise not been disclosed to the Chief Commissioner or Commissioner before the date of search, or

(ii) any income of the specified previous year represented, either wholly or partly, by any entry in respect of an expense recorded in the books of account or other documents maintained in the normal course relating to the specified previous year which is found to be false and would not have been found to be so had the search not been conducted;

(1) No order imposing a penalty under this Chapter shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard

(2) No order imposing a penalty under this Chapter shall be made

(a) by the Income-tax Officer, where the penalty exceeds ten thousand rupees;

(b) by the Assistant Commissioner, where the penalty exceeds twenty thousand rupees, except with the prior approval of the Deputy Commissioner.] (3) An income-tax authority on making an order under this Chapter imposing a penalty, unless he is himself the Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer')

8. From perusal of the above provision we observe that sub section 3 of Section 271AAB of the Act talks about issuing the notice u/s 274 of the Act. So for initiating the penalty proceedings u/s 271AAB of the Act the first step to be taken by Ld. A.O is to issue a valid notice u/s 274 of the Act. Sub-section (1) to Section 274 of the Act provides a procedure that " No order imposing a penalty under this Chapter shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard". To comply with this requirement the notice u/s 274 should be clear enough to convey the assessee about the charge which is to be levelled against him/her/it for levying the penalty for the contravention of the related

provisions of the Act which in the instant case relates to not surrendering of undisclosed amount during the course of search which is subsequently admitted during the course of assessment and not challenged before the Ld. CIT(A). So it was incumbent for Ld. 4.0 that in the notice issued w/s 274 of the Act he should have mentioned that penalty w/s 271AAB of the Act may be levied (@10/20/30% since the assessee falls in Clauses (a)/(b)/(c) of section 271AAB of the Act. He should have further mentioned that as the assessee's case falls under clause-c of section 271AAB of the Act, why she should not be visited by penalty @30% of the undisclosed income. Against this charge the assessee should have been given a reasonable opportunity of being heard.

9. Now let us revert back to the fact of the instant case of the assessee and look into what has been mentioned in the alleged notices issued w/s 274 r.w.s. 2371AAB of the Act, which are reproduced below,

**NOTICE UNDER SECTION 274 READ WITH SECTION 271AAB OF THE
INCOME TAX ACT, 1961**

PAN ACFPB45901

OFFICE OF THE Asstt. Commissioner of Income Tax (Central)-1, Indore

Date: 22.03.2016

To Shri Ashok Kumar Bhatia
33-A Radha Nagar Neelkanth Colony
Indore-452006

Whereas in the course of proceedings before me for the assessment year 2014-15 it appears to me that you:-

**Have without reasonable cause failed to furnish me return of income with you were required to furnish by a notice given under section 22(1)/22(2)/34 of the India Income Tax Act, 1922 or which you were required to furnish under section 193(1) or by a notice given under section 193(2)/148 of the Income Tax Act 1961. No..... Dated... or have without reasonable cause failed to furnish it within the allowed and the manner required by the side section 139(1) or by such notice.*

**Have without reasonable cause failed to comply with a notice under section 22(4)/23(2) of the India Income Tax Act, 1922 or under section 142(1)/143(2) of the Income Tax Act 1961. No dated*

have concealed the particulars of your Income or furnished inaccurate particulars of such Income.

You are hereby requested to appear before me on 21.04.2016 at 3.30 PM and show cause why an order imposing a penalty on you should not be made under section 271AAB of the Income Tax Act 1961 if you do not wish to avail yourself of this opportunity of bearing heard in person or through authorized representative you may show cause in writing on or before the side date which will be considered before any such order is made under section 271AAB.

Sd/-

(Amit Kumar Soni) Asstt. Commissioner of Income Tax (Central)-I
Indore

OFFICE OF THE Deputy Commissioner of Income Tax (Central)-1, Indore

PAN ACFPB4590H

Date: 03.06.2016

To Shri Ashok Kumar Bhatia

33-A Radha Nagar Neelkanth Colony Indore-452006

Sir

Sub: Penalty fixation u/s 271AAB of the Income Tax Act, 1961 for the A.Y. 2014-15- reg

Please refer to the penalty proceedings w/s 271AAB of the Income Tax Act 1961 for the A.Y. 2014-15 in the above mentioned case, you are hereby requested to appear before the undersigned on 10.06.2016 at 11.50AM in my office at Room No. 101, Aayakar Bhawan, Main opp White Church, Indore personally or through authorized representative to show cause as to why penalty ws 271AAB of the LT. Act 1961 be not levied against you? If you do not want to appear personally, you may send your written reply on or before above mentioned date. otherwise penalty proceedings shall be decided on merits.

Sd/-

(Amit Kumar Soni)

Deputy Commissioner of Income Tax (Central)-1
Indore

OFFICE OF THE Deputy Commissioner of Income Tax (Central)-I, Indore

PAN. ACFPB4590H

Date: 16.09.2016

To Shri Ashok Kumar Bhatia

33-A Radha Nagar Neelkanth Colony

Indore-452006

Sir

Sub: Penalty fixation w/s 271AAB r.ws. 129 of the Income Tax Act, 1961 -reg

Please refer to the above

The following penalty proceeding are initiated during assessment as mentioned below.

S. No.	A.Y.	Section	Penalty initiated on
1	2014-15	271AAB	22.03.2016

You are requested to appear before the undersigned on 19.09.2016 at 11.00 AM in my office at Room No.101, Aayakar Bhawan, Main opp. White Church, Indore personally or through authorized representative to show cause as to why penalty w/s 271AAB of the LT. Act 1961 be not levied against you? If you do not want to appear personally, you may send your written reply on or before above mentioned date. If any that you have nothing to say in this regard It is to brought to your notice that there is a change in incumbent hence this notice is issued to provide opportunity of being heard to the assessee.

Sd/-

(Amit Kumar Soni)

Deputy Commissioner of Income Tax (Central)-1 Indore

10. From going through the above three notices issued to the assessee on 22.03.2016, 03.06.2016 and 16.09.2016, we find that there is no mention about various conditions provided u/s 271 AAB of the Act. The Ld. A.O has very casually used the proforma used for issuing notice before levying penalty u/s 271(1)(c) of the Act for the concealment of income or furnishing of inaccurate particulars of income. Except mentioning the Section 271AAB of the Act in the notice it does not talk anything about the provision of section 271.A.AB. Certainly such notice has a fatal error and technically is not a correct notice in the eyes of law because it intends to penalize an assessee without spelling about the charge against the assessee.

11. Hon'ble Jurisdictional High Court in the case of PCIT Vis Kulwant Singh Bhatia (supra) dealt the issue of defective notice issued w/s 274 r.w.s. 271(1)(c) of the Act and Hon'ble court after relying judgment of Hon'ble Supreme Court in the case of CIT V/s Manjunatha Cotton Ginning Factory and CIT v/s SSA'S Emerald Meadows (supra) held that such show cause notices would not satisfy the requirement of law as notice was not specific. Merely issuing notice in general proforma will negate the very purpose of natural justice. Hon'ble Apex Court in the case of Dilip N Shraf 161 Taxmann 218 held that "the quasi criminal proceedings w/s 271(1)(c) of the Act ought to comply with the principles of natural justice"

12. In the case of DCIT V/s R. Elangovan Lid capra). Co-ordinate Bench, Chennai while dealing with the legal ground challenging the validity of notice issued u/s 274 r.w.s. 271AAB of the Act had observed that;

"It is clear from the Sub Section (3) of Section 271 AAB that Sections 274 and Section 275 of the Act shall, so far as may be, apply. Sub Section (1) of Section 274 of the Act mandates that order imposing penalty has to be imposed only after hearing the assessee or giving a assessee opportunity of hearing. Opportunity that is to be given to the assessee should be a meaningful one and not a farce. Notice issued to the assessee reproduced (supra), does not show whether penalty proceedings were initiated for concealment of income or for furnishing inaccurate particulars of income or for having undisclosed income within the meaning of Section 271AAB of the Act. Notice in our opinion war vague. Hon'ble Karnataka High Court in the case of SSA'Y Emerald Meadows (supra) relying in its own judgment in the case of Manjunatha Cotton and Ginning Factory (supra) had held as under-

"2. This appeal has been filed raising the following substantial questions of law.

(1) Whether, omission if assessing officer to explicitly mention that penalty proceedings are being initiated for furnishing of inaccurate particulars or that for concealment of income makes the penalty order liable for cancellation even when it has been proved beyond reasonable doubt that the assessee had concealed income in the facts and circumstances of the case?

(2) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the penalty notice under Section 274 r.w.s. 271(1)(c) is bad in law and invalid despite the amendment of Section 271 (1 B) with retrospective effect and by virtue of the amendment, the assessing officer has initiated the penalty by properly recording the satisfaction for the same?

(3) Whether on the facts and in the circumstances of the case, the Tribunal was justified in deciding the appeals against the Revenue on the basis of notice issued under Section 274

without taking into consideration the assessment order When the assessing officer has specified that the assessee has concealed particulars of income?

3. *The Tribunal has allowed the appeal filed by the assessee holding the notice issued by the Assessing Officer under Section 274 read with Section 271 (1)(c) of the Income Tax Act, 1961 (for short '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 ie.. Whether for concealment of particulars of income or furnishing of inaccurate particulars of income. The Tribunal, While allowing the appeal of the assessee, has relied on the decision of the Division Bench of this Court rendered in the case of CIT vs. Manjunatha Cotton and Ginning Factory (2013) 359 ITR 565.*

4. *In our view, since the matter is covered by judgment of the Division Bench of this Court, we are of the opinion, no substantial question of law arises in this appeal for determination by this Court. The appeal is accordingly dismissed"*

In the earlier case of Manjunatha Cotton and Ginning Factory (supra) their lordship had observed as under-

"Notice under section 274 of the Act should specifically state the grounds mentioned in section 271(1)(c), ie, whether it is for concealment of income or for furnishing of incorrect particulars of income. Sending printed form where all the grounds mentioned in section 271 are mentioned would not satisfy the requirement of law.

The assessee should know the grounds which he has to meet specifically. Otherwise, the principles of natural justice are offended. On the basis of such proceedings, no penalty could be imposed on the assessee) taking up of penalty proceedings on one limb and finding the assessee guilty of another limb is bad in law, penalty proceedings are distinct from the assessment proceedings though proceedings for imposition of penalty emanate from proceedings of assessment, they are independent and a separate aspect of the proceedings.

The findings recorded in the assessment proceedings in so far as "concealment of income" and "furnishing of incorrect particulars" would not operate as res judicata in the penalty proceedings. It is open to the assessee to contest the proceedings on the merits. However, the validity of the assessment or reassessment in pursuance of which penalty is levied, cannot be the subject matter of penalty proceedings. The assessment or reassessment cannot be declared invalid in the penalty proceedings."

View taken by the Hon'ble Karnataka High Court in the above judgment was indirectly affirmed by the Hon'ble Apex Court, when it dismissed an SLP filed by the Revenue against the judgment in the case of SSA's Emerald Meadows (supra), specifically observing that there was no merits in the petition filed by the Revenue. Considering the above cited judgments, we hold that the notice issued u/s.274 r.w.s. 271AAB of the Act, reproduced by us at para 5 above was not valid. Ex-consequenti, the penalty order is set aside.

13. *The view taken by the Co-ordinate Bench of Chennai in the case of DCIT V/s R Elangovan 1199/CHNY/2017 order dated 05.04.2018 has been subsequently followed by the Co-ordinate Bench of Jaipur in the case of Ravi Mathur Vs DCIT, ITA No.969/JP/2017 holding that such show cause notice issued u/s 274 r.w.s. 271AAB of the Act are not sustainable in law,*

14. As regards to judgment of Hon'ble Allahabad High Court in the case of Pr. CIT Vs Sandeep Chandak (supra) which has been relied by the Departmental Representative is concerned, we find that in the decision rendered by the Co-ordinate Bench of Jaipur in the case of Ravi Matimer Vs DCIT (supra) wherein also similar issue of defective notice w/s 274 r.w.s. 271AAB was adjudicated, the judgment of Hon'ble Allahabad High Court in the case of Pr. CIT Vs Sandeep Chandak (supra) has been discussed and distinguished observing as follows-

It is further submitted that in para 5 of this judgment (Ravi Mathur), the case quoted by Ad CIT(A) Pr. CIT vs Sandeep Chandak (All) was distinguished as under:

5. Before we proceed further, the decisions relied upon by the Id DVR are to be considered. In the case of Principal CIT vs Sandeep Chandak & Others [TS-6389-HC-2017(Allahabad)-01 (supra) the issue before the Hon'ble High Court was the defect in the notice issued under section 271AAR on account mentioning wrong provision of the Act being 271(Die) of the Act. The Hon'ble High Court after considering the fact that the show cause notice issued by the AO though mentions section 271(1) in the caption of the said notice, however, the body of the show cause notice clearly mentions section 271AAB, which was fully comprehended by the assessee as reveals in the reply filed by the assessee against the said show cause notice. Hence the Hon'ble High Court has held as under "The Id ARs have also challenged that the caption of the notice mentioned only section 271 and not 271AAB. In this respect the copy of notice has been produced by the Id. AR before me. It is seen that the Id AR is correct in observing that the section of penalty has not been correctly mentioned by the AO in the caption. However, the AO will get the benefit of section 292BB of the Income Tax Act, 1961 because firstly, the assessee had raised me objection before the AO in this regard Secondly last line of the notice clearly mentions section 271AAB. Thirdly, the assessee has given reply to said notice which shines that the assessee fully comprehended the implication of the notice that it is for section 271AAB.

The assessee has challenged that the principles followed by the AO. The detailed submissions of A.R. in this regard has already been reproduced above The A.R. did not produce any evidence to show that he was not given proper opportunity of hearing. It is clear from the penalty order that the AO has given notice and which was also replied by the assessee. Therefore, in my opinion, principle of natural justice has not been violated. Thus in view of above discussion penalty imposed by AO u/s 211AA8 of the Act is confirmed."

Thus it was found by the Hon'ble High Court that the mistake in mentioning the section in the show cause notice is covered under section 292BB and the AO will get the benefit of the same. The said decision will not help the case of the revenue so far as the issue involves the merits of levy of penalty under section 271AAB. As regards the decision of Kolkata Benches of the Tribunal in the case of DCIT vs Amit Agrawal (TS-7675-ITAT-2017/Kolkata)-0) (Supra), we find that the said decision was subsequently recalled by the Tribunal and a fresh order dated 14th March, 2018 was passed by the Tribunal in favour of the assessee. Therefore, the decision relied upon by the Ld DR is no more in existence."

15. We, therefore respectfully following the judgment of jurisdictional High Court in the case of PCIT V/s Kulwant Singh Bhatia (supra), decision of Co-ordinate Bench of

Chennai in the case of DCIT V/s R. Elangovan (supra) and Jaipur Bench in the case of Ravi Mathur vs. DCIT (supra) and in the given facts and circumstances of the case wherein the matter written in the body of the notice issued u/s 274 of the Act does not refer to the charges of provision of Section 271 AAB of the Act makes the alleged notice defective and invalid and the deserves to be quashed. Since the penalty proceedings itself has been quashed the impugned penalty of Rs.64,22,348/- stands deleted. Thus assessee succeeds on legal ground challenging the validity of notice issued u/s 274 r.ws. 271AAB of the Act.

4. We adopt the above extracted detailed reasoning mutatis mutandis to delete the impugned penalty."

9. Since the issue in hand, which basically hinges on the alleged defective show cause notice issued in terms of section 274 of the Act, is exactly the same, following the Coordinate Bench's decision in the case of Shri Sanjay Kumar Sharda vs. ACIT (supra), set aside the penalty order and direct the AO to delete the penalty imposed on the assessee.
10. In the result, this appeal filed by the assessee is allowed.

Order announced in open court on 09/10/2025.

Sd/-
(GEORGE MATHAN)
JUDICIAL MEMBER

Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER

Ranchi, Dated:12/11/2025

**Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Ranchi