

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad
श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री मधुसूदन सावडिया, माननीय लेखा सदस्य
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA HON'BLE ACCOUNTANT MEMBER

आयकरअपीलसं./I.T.A. No.932/Hyd/2025
(निर्धारणवर्ष/ Assessment Year: 2009-10)

Nagaiah Kekkireni, Suryapet. PAN: BHDPK1670B	VS.	Income Tax Officer, Ward-1, Suryapet.
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाताकाप्रतिनिधित्व/ Assessee Represented by	:	Shri S. Rama Rao, Advocate
राजस्वकाप्रतिनिधित्व/ Department Represented by	:	Shri S. Arun Kumar, Sr. AR
सुनवाईसमाप्तहोनेकीतिथि/ Date of Conclusion of Hearing	:	17/12/2025
घोषणा की तारीख/ Date of Pronouncement	:	07/01/2026

ORDER

PER RAVISH SOOD, JM:

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated 30/03/2025, which in turn arises from the order passed by the Assessing Officer (for short, "AO") under section 271(1)(c) of the Income Tax Act, 1961 (for short, "the Act"),

dated 29/08/2019 for the Assessment Year (AY) 2009-10. The assessee has assailed the impugned order of the CIT(A) on the following grounds of appeal:

- “1. The order of the learner CIT(A) is erroneous both on facts and in law.
2. The learned CIT(A) erred in confirming the levy of penalty u/s 271(1)(c) of Rs.12,12,372/- without considering the fact that there is no concealment of income.
3. The learned CIT(A) ought to have seen that there is no concealment of income nor furnishing of inaccurate particulars and therefore no penalty is leviable.
4. The learned CIT(A) ought to have held that the order u/s 271(1)(c) is not passed within time.
5. Any other ground that may be urged at the time of hearing.”

2. Succinctly stated, the assessee had filed his return of income for AY 2009-10 on 02/01/2014, declaring an income of Rs. 4,48,780/-. Subsequently, the case of the assessee was selected for scrutiny assessment under section 143(2) of the Act. Survey proceedings under section 133A of the Act were conducted at the premises of Sri Beerreddy Jaipal Reddy on 19/02/2013, wherein certain papers belonging to the assessee were found. The AO based on the aforesaid incriminating documents recorded the statement of the assessee under section 131 of the Act, dated 16/05/2013, wherein the assessee on being confronted with the aforementioned documents impounded during the course of the survey proceedings submitted that he had purchased Ac.3.03 guntas of land in Survey No.193/VU at Pillalamarri Village on 05/02/2009, vide

Document No.1099/2009 from Sri Beereddy Jaipal Reddy for a consideration of Rs.41,90,000/-. Also, it was stated by the assessee that he had purchased land in Survey No. 196 from Shri Tadepalli Saidulu for a consideration of Rs. 9,22,050/- in the name of his wife Smt. Kakkireni Renuka during the subject year.

3. During the course of the assessment proceedings, the AO observed that the assessee's statement recorded on 16/05/2013 read along with documents impounded during the course of the survey proceedings conducted on Shri Beereddy Jaipal Reddy, revealed that the assessee had purchased Ac. 3.03 guntas of land (supra) for a total consideration of Rs. 42,84,604/-, viz. (i) principal purchase consideration: Rs. 41,90,000/-; and (ii) registration charges incurred at the time of executing the sale deed: Rs. 94,605/-. The assessee on being queried about the source of the aforesaid purchase consideration of Rs. 42.84 lakhs (approx.), submitted vide his reply dated 14/02/2014 that the said amount was sourced out of the advances that he had received from his customers. Also, it was stated by the assessee that he had offered income @8% on the amount of the purchase consideration in his return of income for the subject year in order to purchase peace of mind and avoid protracted litigation. However, the AO did not find favour with the explanation of the assessee for the reason that he had failed to provide the details of the customers from

whom he had received the advances for purchasing the subject land for a consideration of Rs. 42.84 lakhs (supra). Also, it was observed by the AO that though the purchase consideration as per the registered sale deed (including stamp duty, etc.) amounted to Rs.10,67 455/-, but the assessee vide his statement recorded under section 131 of the Act, dated 16/05/2013, on being confronted with the documents impounded in the course of the survey proceedings conducted on Shri Beerreddy Jaipal Reddy (supra) had admitted of having purchased the said land for a consideration of Rs. 41.90 lakhs. The AO, after necessary deliberations, concluded that the assessee had failed to come forth with an explanation regarding the source of purchase of the subject land for a total consideration of Rs. 42.84 lakhs (supra). Insofar, the claim of the assessee that he had offered income @8% on the purchase price of Rs. 41.90 lakhs, the AO was of the view that the earning of the income had nothing to do with the source of the unexplained investment for purchasing the subject land during the year under consideration. Accordingly, the AO holding a conviction that the assessee had failed to explain the source of the property purchased from Shri Beerreddy Jaipal Reddy made an addition of Rs. 42.84 lakhs (supra). Also, the AO being of the view that the assessee had failed to explain the source of acquisition of 600 sq yds of land that was purchased by him in Survey No.196 from Shri Tadepalli Saidulu in the name of his wife Smt. Kakkireni Renuka for consideration of Rs. 9,22,050/-, made an addition

of the said amount along with an addition of agricultural income of Rs. 60,000/-.

4. The AO, while culminating the assessment, had also initiated penalty proceedings under section 271(1)(c) of the Act for concealment of the particulars of income. Thereafter, the AO vide his order passed under section 271(1)(c) of the Act, dated 29/08/2019 imposed a penalty of Rs.12,12,370/- for concealment of income regarding the undisclosed source of investment made by the assessee towards purchase of land admeasuring Ac.3.03 guntas in Survey No.193/VU, Pillalamarri Village on 05/02/2009, vide Document No.1099/2009 from Sri Beerreddy Jaipal Reddy for consideration of Rs.42.84 lakhs (supra).

5. The assessee being aggrieved with the order passed by the AO under section 271(1)(c) of the Act, dated 29/08/2019 carried the matter in appeal before the CIT(A), who vide his order dated 30/03/2025 found no infirmity in the view taken by the AO and upheld the penalty imposed by him under section 271(1)(c) of the Act. Thereafter, on an appeal filed by the assessee against the order passed by the AO under section 143(3) r.w.s 147 of the Act, dated 25/03/2015, the addition of Rs. 42.84 lakhs (supra) that was made by the AO towards unexplained investment for the purchase of Ac. 3.03 guntas of land was upheld.

5. Thereafter, the Tribunal vide its order passed in ITA No.178/Hyd/2017, dated 31/01/2019, upheld the addition of Rs.42.84

lakhs (supra) that was made by the AO qua the unexplained investment towards purchase of Ac. 3.03 guntas of land, which thereafter had been sustained by the CIT(A).

6. The assessee assailed the order passed by the Tribunal in ITA No.178/Hyd/2017, dated 31/01/2017 by way of an appeal before the Hon'ble High Court of Telangana, Page No.24 of APB.

7. Thereafter, the Hon'ble High Court of Telangana vide its order, dated 14/08/2025 in ITTA No.92/2025 admitted the aforesaid appeal of the assessee on the following substantial question of law, Page No.27 of APB:

1. " Whether the order passed by Income Tax Appellate Tribunal is perverse in adopting estimated sale value based on assumptions when the registered sale deeds are available on record. thereby violating the provisions of section 43CA of the Income Tax Act, 1961?"

8. The assessee being aggrieved with the order of the CIT(A), dated 30/03/2025, wherein he had upheld the penalty imposed by the AO under section 271(1)(c) of the Act with respect to the impugned addition of Rs.42.84 lakhs (supra) that was made by him vide his order under section 143(3) r.w.s 147 of the Act, dated 25/03/2015 with respect to Ac. 3.03 guntas of land, has carried the matter in appeal before us.

9. We have heard the Learned Authorized Representatives of both parties, perused the orders of the authorities below and the material

available on record, as well as considered the judicial pronouncements that have been pressed into service by them to drive home their respective contentions.

10. We have thoughtfully considered the contentions advanced by the Ld. AR in the backdrop of the orders of the lower authorities.

12. Admittedly, it is a matter of fact discernible from the record that the order passed by the Tribunal while disposing of the assessee's appeal in ITA No.178/Hyd/2017, dated 31/01/2018 for AY 2009-10, wherein the impugned addition of Rs.42.84 lakhs (supra) made by the AO towards undisclosed investment on Ac.3.03 guntas of land (supra) was upheld by the Tribunal, had thereafter been assailed by way of appeal under section 260A of the Act in appeal before the Hon'ble Jurisdictional High Court. As has been brought to our notice by the Ld. AR, the Hon'ble High Court vide its order, dated 14/08/2025, had admitted the appeal filed by the assessee and formulated a substantial question of law, which reads as under:

1. " Whether the order passed by Income Tax Appellate Tribunal is perverse in adopting estimated sale value based on assumptions when the registered sale deeds are available on record. thereby violating the provisions of section 43CA of the Income Tax Act, 1961?"

11. The controversy involved in the present appeal narrows down to the solitary aspect, i.e., as to whether or not the penalty imposed by the

AO under section 271(1)(c) of the Act, dated 29/08/2019, with respect to the addition of Rs. 42.84 lakhs (supra), which thereafter had been sustained by the CIT(A), is sustainable in the eyes of law, specifically when the core issue, i.e., the impugned addition had been assailed by the assessee before the Hon'ble High Court and the appeal has been admitted on the said aspect.

12. We find that the aforesaid issue, i.e., as to whether or not the penalty under section 271(1)(c) of the Act can be imposed with respect to an addition, which has been assailed before the Hon'ble High Court and the appeal had been admitted under section 260A of the Act is squarely covered by the judgment of the **Hon'ble High Court of Delhi** in the case of **Principal Commissioner of Income Tax, (Central)-2 Vs. Harsh International (P) Ltd. (2021) 431 ITR 118 (Delhi)**, wherein, after necessary deliberations, it was held as under:

"9. Having heard the learned counsel for the appellant and having perused the impugned order, this Court is of the view that the ITAT was right in deleting the penalty levied under section 271(1)(c) of the Act. It has to be noted that penalty proceedings are an outcome of assessment and if the assessment itself is debatable, the penalty proceedings cannot survive.

10. This court is also of the opinion that levy of penalty cannot be a matter of course, as sought to be contended by the Revenue. It can only be levied in cases where the concealment of income has been proven. **If the quantum order itself has been challenged and this Court has framed substantial questions of law in the appeal preferred by the respondent-assessee, it shows that the alleged concealment is not final and the issue is disputable. Consequently, the penalty levied by the assessing officer cannot survive in such a case.**

11. It is pertinent to note that this Court in similar cases [CIT v. Liquid Investment Ltd. [IT Appeal No. 240 of 2009, dated 5-10-2010], CIT v. H B Leasing & Finance Co. Ltd. [2012] 20 taxmann.com 190/211 Taxman 132 (Mag.)/[2011] 334 ITR 367 and CIT v. Thomson Press India Ltd. [IT Appeal 426,440 of 2013] has upheld the deletion of the penalty on the same ground i.e. the fact that appeals were admitted proved that the issue was debatable. The relevant portion of the orders in Liquid Investment Ltd (supra) and Thomson Press India Ltd. (supra) is reproduced hereinbelow :—

(A) Order dated 5th October, 2010 passed by this Court in Liquid Investment Ltd (supra):—

"Both the CIT(A) as well as the ITAT have set aside the penalty imposed by the Assessing Officer under section 271(1)(c) of the Income-tax Act, 1961 on the ground that the issue of deduction under section 14A of the Act was a debatable issue. We may also note that against the quantum assessment where under deduction under section 14A of the Act was prescribed to the assessee, the assessee has preferred an appeal in this Court under section 260A of the Act which has also been admitted and substantial question of law framed. This itself shows that the issue is debatable. For these reasons, we are of the opinion that no question of law arises in the present case."

(B) Order dated 3rd March, 2014 passed by this Court in Thomson Press India Ltd. (supra):—

"This Court is of the opinion that where the question of law as raised by the assessee has been framed and admitted in the circumstances of this case, imposition of penalty cannot be justified. The appeals being bereft of substantial question of law are dismissed."

12. Keeping in view the aforesaid, this Court finds that no question of law arises in the present appeals for consideration of this Court.

13. Consequently, both the appeals, being bereft of merit, are dismissed"

(emphasis supplied by us)

We, thus, in terms of the aforesaid settled position of law are of the considered view that as the core issue with respect to the

addition of Rs. 42.84 lakhs (supra), regarding which the impugned penalty under Section 271(1)(c) of the Act had been imposed by the AO and thereafter sustained by the CIT(A) has been admitted by the Hon'ble High Court vide its order, dated 14/08/2025, therefore, the said penalty cannot be sustained and is liable to be struck down on the said count itself.

13. Resultantly, the penalty of Rs. 12,12,372/- imposed by the AO under Section 271(1)(c) of the Act is directed to be vacated in terms of our aforesaid observations.

14. In the result, the appeal filed by the assessee is allowed in terms of our aforesaid observations.

Order pronounced in the open court on 07th January, 2026.

Sd/- (मधुसूदन सावडिया) (MADHUSUDAN SAWDIA) लेखासदस्य/ACCOUNTANT MEMBER	Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिकसदस्य/JUDICIAL MEMBER
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Hyderabad, dated: 07/01/2026.

*OKK/sps

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारित/ The Assessee	:	Nagaiah Kekkireni, 1-1-109/A, Thallagadda Suryapet-508213, Telangana.
2.	राजस्व/ The Revenue	:	Income Tax Officer, Ward-1, Suryapet, Telangana.
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण /DR,ITAT, Hyderabad.		
5.	The Commissioner of Income Tax		
6.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad.