

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.3833/Del/2025
Assessment Year: 2016-17

M/s Solitairian Buildinfra (P) Ltd. D-835 New Friends Colony New Delhi-110065 Pan No. AAWCS1441E	Vs	DCIT/ACIT Central Circle Ghaziabad
(APPELLANT)		(RESPONDENT)

Appellants by	Shri Somil Agarwal, Advocate Ms. Shilpa Gupta, CA
Respondent by	Ms. Harpreet Kaur Hansra, Sr. DR.

Date of hearing:	07/01/2026
Date of Pronouncement:	14/01/2026

ORDER

PER SUDHIR KUMAR, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-3, Noida, [hereinafter referred to as “(Ld.CIT(A)”], vide order dated 27.04.2023 pertaining to A.Y. 2016-17 and arises out of the penalty order dated 25-03-2023 passed by the Assessing Officer under Section 271(1)(c) of the Income Tax Act, 1961 [hereinafter referred as ‘the Act’].

2. The assessee has raised the following grounds of appeal :

1. *That having to the facts and circumstances of the case, Ld. CIT(A) has erred in law and facts in confirming the action of Ld. AO in imposing penalty of Rs.5,45,940/- u/s 271(1)(c) and passing the impugned penalty order and that too without assuming jurisdiction as per and without complying with the mandatory conditions laid down under the said section.*

2. *That having to the facts and circumstances of the case, Ld. CIT(A) has erred in law and facts in the action of Ld. AO in imposing penalty of Rs.5,45,940/- and passing the impugned penalty order being illegal and void ab-initio and without obtaining the valid approval from the competent authority in accordance with law.*

3. *That in any case and in any view of the matter, action of Ld.CIT(A) in confirming the action of Ld. AO in imposing penalty of Rs.5,45,940/- u/s 271(1)(c), is bad in law and against the facts and circumstances of the case and without granting adequate opportunity of hearing and without observing the principles of natural justice.*

4. *That having to the facts and circumstances of the case, Ld. CIT(A) has erred in law and facts in confirming the action of Ld. AO in imposing penalty of Rs.5,45,940/- u/s 271(1)(c) and passing the impugned penalty order and that too without recording the mandatory 'satisfaction' as per law and without*

levying a clear charge whether there was 'concealment of income or 'furnishing of inaccurate particulars of income'.

5. That having to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in imposing penalty and passing penalty order and that too without the valid approval of Ld. JCIT.

6. That having to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not quashing the impugned penalty order which is barred by limitation.

7. That the assessee craves the leave to add, alter or amend the grounds of appeal at any stage and all the grounds are without prejudice to each other.

3. The brief facts of the case are that the a search and seizure operation u/s 132 of the Act was conducted on 19-12-2016 at the premises of the assessee comprising M/s SSG Infratech Pvt. Ltd., Sh. Harjeet Singh Sahni and Smt. Rummy Sahni at A-56 Sector 136 Noida. During the search & seizure proceedings various incriminating documents belonging to the assessee were found and seized. Notice under section 153C of the Act was issued on 03-10-2018. In the response of the notice the assessee filed his return of income on 29-10-2018 declaring total income of Rs Nil. There after statutory notices were issued. After considering the submission submitted by the assessee the Assessing Officer completed the assessment after making the addition of Rs.43,05,000/- on various heads and penalty

proceedings u/s 271(1) (C) of the Act was initiated. Aggrieved the order of the Assessing officer the assessee filed the appeal which was dismissed by the Ld. CIT(A) and confirmed the addition made by AO. Notice of penalty u/s 271(1)(c) of the Act was issued to the assessee and after considering the submission filed by the assessee the assessing officer levied the penalty of Rs.5,45,940/-. Aggrieved the penalty order the assessee preferred the appeal before the Ld. CIT(A), who vide his order dated 09-06-2025 dismissed the appeal, against which the assessee is in appeal before the tribunal.

4. The Ld. AR has submitted that the penalty order passed by AO is bad in law and without jurisdiction void ab initio and imposed in violation of the principles of natural justice. He also submitted that notice under section 274 r.w.s. 271(1) (c) of the Act was issued on the both limbs and the inapplicable portion has not been struck off. Reliance is placed on the following cases:

- (i) CIT v. SSA's Emerald Meadows (2016) 73 taxmann.com 241 (SC)
- (ii) PCIT v. Gragerious Projects (P.) Ltd. [2025] 475 ITR 546 (DELHI)
- (iii)PCIT v. Blackrock Securities (P.) Ltd. [2023] 157 taxmann.com 564 (Delhi)
- (iv) PCIT v. Smt. Baisetty Revathi [2017] 398 ITR 88(AP & Telanganna)

(v) Nilima Agarwal v. ITO [2025] taxmann.com 59 (Raipur trib)

(vi) In the case of Pr. Commissioner of Income –tax v. Sahara India Life Insurance Co. Ltd. [2019] 108 taxmann.com 597 (Delhi) the Hon'ble Delhi High Court held that:

21. The respondent had challenged the upholding of the penalty imposed under section 271(1) (c) of the Act which was accepted by the ITAT. It followed the decision of the Karnataka High Court in CIT v. Manjunatha Cotton & Ginning Factory [2013] 35 taxmann.com 250/218 Taxman 423/218 Taxman 423/359 ITR 564 and observed that the notice issued by the AO would be bad in law if it did not specify which limb of section 271(1) (c) the penalty proceedings had been initiated under i.e. whether for concealment of particulars of income or for furnishing of inaccurate particulars of income. The Karnataka High Court had followed the above judgment in the subsequent order in CIT v. SSA's Emerald Meadows [2016] 73 taxmann.com 241, the appeal against which was dismissed by the Supreme Court of India in SLP No. 11485 of 2016 by order dated 5th August, 2016.

5. The Ld. Sr. DR relied upon the orders of the authorities below.

6. We have heard the revival contention of the parties and gone through the material available on record. We find that the AO has mentioned both limbs in the notice dated 27-12-2018 issued under section 271(1) (c) of the Act (P.B. page no.1) and has not struck off the inapplicable portion of the Act. The, AO in

the penalty order has mentioned the facts that the penalty levied u/s 271(1) (c) of the Act for concealment of income. Since the matter is covered by the judgment of the Hon'ble Delhi High Court, we quashed the penalty order levied by AO. The ground no 4 raised by the assessee is allowed.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 14.01.2026.

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

*SR BHATNAGAR"

Date:-14.01.2026

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(Appeals)
- 5.DR: ITAT

Sd/-

(SUDHIR KUMAR)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI