



आयकर अपीलीय अधिकरण,राजकोट न्यायपीठ,राजकोट।

**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH (SMC), RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.857/RJT/2025

निर्धारण वर्ष / Assessment Year: (2014-15)

Klin Industries Saandha, Khamidana, Junagadh-362220 (Gujarat)	बनाम/ Vs.	Assistant Commissioner of Income-tax, Circle-Junagadh
स्थायीलेखासं./जी आइ आर सं./PAN/GIR No.: AALFK6145M		
(Appellant)		(Respondent)

Appellant by : Shri R.B. Shah, AR
Respondent by : Shri Gopi Nath Chaubey, Sr. DR
Date of Hearing : 24/12/2025
Date of Pronouncement : 15/01/2026

आदेश / ORDER

Per, Dr. Arjun Lal Saini, AM:

Captioned appeal filed by the assessee, pertaining to assessment year 2014-15, is directed against the order passed under section 250 of the Income Tax Act, 1961 (in short “the Act”) by National Faceless Appeal Centre (NFAC), Delhi /Commissioner of Income-tax(Appeals) [in short “Ld.CIT(A)”] dated 31.10.2025, which in turn arises out of an assessment order passed u/s 143(3) of the Act on 23.12.2016.

2. The grounds of appeal raised by the assessee are as follows:

“1. That the Learned NFAC has erred in law and on facts in confirming penalty of Rs.6,21,198/- u/s 271(1)(c) of the Act. The penalty deserves to be deleted.

2. That the penalty order is invalid as the specific limb (concealment vs. inaccurate particulars) is not clearly identified nor supported by a clear finding in the assessment order.



3. That the learned NFAC has grossly erred in law and on facts by confirming the penalty of Rs.6,21,198/-, under section 271(1)(c) of the Act, despite the final tax liability for A. Y. 2014-15, having been determined and levied exclusively under the deemed provisions of Section 115JC (AMT) of the Act.

4. That the Ld. authorities failed to appreciate that the case is covered by the reasonable cause u/s 273B; hence no penalty is leviable.

5. The appellant reserves liability to add, alter, amend, modify or withdraw any grounds of appeal at the time of hearing.”

3. The relevant material facts, as culled out from the material on record, are as follows. The assessee filed its e-return of income on 12.10.2016, declaring Nil income claiming deduction u/s 80JJA of Rs.20,70,660/-. The scrutiny assessment for the year under consideration in the case of the assessee was completed u/s 143(3) of the Act, on 23.12.2016, accepting the nil income. Thereafter, the case of the assessee was re-opened u/s 147 of the Act, after approval from the Jt. Commissioner of income tax, Range, Junagadh. The reason for reopening of the case of the assessee was that the adjusted total income and Alternative Minimum Tax (AMT) as per section 115JC of the Act was remained to be included in the total income raised in the assessment order u/s 143(3) of the Act, dated 23.12.2026. Accordingly, notice u/s 148 of the Act was issued on 13.03.2019 but the assessee did not file its return of income. During the course of assessment proceedings, the assessee neither filed any return of income in response to notice u/s 148 nor submitted any reply. Therefore, notice u/s 142(1) of the Act, dated 17.10.2019, was issued along with questionnaire requesting the assessee to file its return of income for the year under consideration. Accordingly, the re-assessment proceedings was completed u/s 144 r.w.s 147 of the Act, on 31.10.2019 at a total income of Rs.20,70,660/- and penalty proceedings was initiated. In view of the above facts and circumstances of the case and relying upon the various judgments, the assessing officer had concluded that the case of the assessee was a fit case for levying of penalty u/s 271(1)(c) of the Act. Accordingly, the assessing officer



was satisfied that the case of the assessee was a fit case for levy of penalty u/s 271(1)(c) of the Act, for concealment of particulars income of Rs.20,70,660/- and therefore assessing officer levied penalty of Rs.6,21,198/-, being 100% of tax sought to be evaded.

4. Aggrieved by the order of the Assessing Officer, the assessee, carried the matter in appeal before Ld. CIT(A), who has confirmed the action of the Assessing Officer. The Id.CIT(A) noticed that the ITR-5 prescribed for assessment year (AY) 2014-15, clearly includes a column for declaring income u/s115JC within Part B-TI which deals with computation of total income. Column 18 of computation of total income, clearly required the assessee to declare, deemed total income under section 115JC and failure to fill this column has rendered the appellant liable for concealment penalty u/s 271(1)(c) of the Act. The fact that the Assessing Officer did not levy the MAT in the order u/s 143(3) dated 23.12.2016 reflects an error on the part of the Assessing Officer, but that cannot absolve the appellant from its responsibility of declaring the correct total income. Therefore, Id.CIT(A) confirmed the penalty of Rs.6,21,198/- imposed by the assessing officer.

5. Aggrieved by the order of Ld.CIT(A), the assessee is in appeal before this Tribunal.

6. Shri R.B. Shah, Learned Counsel for the assessee vehemently argued that penalty notice issued by the assessing officer under section 271(1) (c) of the Act, is vague and defective as no limb of either concealment of income or furnishing inaccurate particulars of income, have been specified in the penalty notice. Therefore, learned Counsel submitted that the penalty order is invalid, as the specific limb “concealment of income” or “inaccurate particulars” is not



clearly identified nor supported by a clear finding in the assessment order, hence, penalty levied by the assessing officer may be deleted.

7. The Learned Counsel further submitted that it is unintentional and inadvertent mistake by the chartered accountant of the assessee, while filling the return of income and appropriate form of AMT provision, every disallowance cannot be automatically penalized. For this, learned Counsel for the assessee relied on the judgement of the Hon`ble Supreme Court, in the case of CIT Vs. Reliance Petroproducts (P) Ltd. (210) 322ITR 158 (SC), wherein it was held that bona fide claim/deduction disallowed by the assessing officer cannot automatically penalized u/s 271(1)(c) of the Act. The Hon`ble Supreme Court, in the case of in Price Waterhouse Coopers Pvt. Ltd. vs. CIT (2012) 348 ITR 306 (SC), held that penalty should be deleted where a computational error occurred due to an oversight, and the facts were fully disclosed.

8. On the other hand, the Learned Senior DR for the Revenue, argued that merely because particular limb has not been mentioned in the penalty notice, that does not mean that the notice is defective. There is a clear finding that assessee has concealed the particulars of income, therefore, penalty should be imposed on the assessee. Further, learned DR also relied on the findings of the assessing officer and submitted that penalty imposed by the assessing officer, may be sustained.

9. I have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id CIT(A) and other materials brought on record. I note that the Assessing Officer has not struck off the irrelevant portion of furnishing inaccurate



particulars of income. From the notice itself, one cannot see that Assessing Officer has issued notice for concealment of particulars of income as well as inaccurate particulars of income, *whereas* the penalty proceedings initially on account of concealment of income. Hence, penalty levied by the Assessing Officer is bad-in-law and for that I rely on the judgment of Hon'ble Bombay High Court in the case of Principal Commissioner of Income-tax (Central), Bengaluru vs. Goa Coastal Resorts and Recreation (P.) Ltd. [2020] 113 taxmann.com 574 (Bom)/[2020] 272 Taxman 157 (Bom) [11-11-2019], *wherein* it was held as follows:

“4. Mr. Rao, learned Advocate for the assessee points out that there is absolutely no finding as regards concealment or furnishing of inaccurate particulars. He further points out that in the notice issued to the assessee on 30/09/2016, the Deputy Commissioner had not even bothered to strike down the relevant portion of the printed form in order to indicate whether the satisfaction is based upon the concealment of particulars or furnishing of inaccurate particulars. He relies on CIT v. Samson Perinchery [2017] 88 taxmann.com 413/392 ITR 4 (Bom.) and CIT vs. New Era Sova Mine [2019] SCC online Bom.1032 to submit that on the basis of such a defective notice, award of penalty can never be sustained.

5. We have carefully examined the record as well as duly considered the rival contentions. Both the Commissioner (Appeals) as well as the ITAT have categorically held that in the present case, there is no record of satisfaction by the Assessing Officer that there was any concealment of income or that any inaccurate particulars were furnished by the assessee. This being a sine qua non for initiation of penalty proceedings, in the absence of such petition, the two authorities have quite correctly ordered the dropping of penalty proceedings against the petitioner.

6. Besides, we note that the Division Bench of this Court in Samson Preinchery (supra) as well as in New Era Sova Mine (supra) has held that the notice which is issued to the assessee indicate whether the Assessing Officer is satisfied that the case of the assessee involves concealment of particulars of income or furnishing of inaccurate particulars of income or both, with clarity. If the notice is issued in the printed form, then, the necessary portions which are not applicable are required to be struck off, so as to indicate with clarity the nature of the satisfaction recorded. In both Samson Perinchery and New Era Sova Mine (supra), the notices issued had not struck off the portion which were inapplicable. From this, the Division Bench concluded that there was no proper record of satisfaction or proper application of mind in matter of initiation of penalty proceedings.

7. In the present case, as well if the notice dated 30/09/16 (at page 3) is perused, it is apparent that the relevant portions have not been struck off. This coupled with the fact adverted to in paragraph (5) of this order, leaves no ground for interference with the impugned order. The impugned order are quite consistent by the law laid down in



the case of Samson Perinchery and New Era Sova Mine (supra) and therefore, warrant no interference.

8. The contention based upon MAK Data (P.) Ltd. (supra) also does not appeal to us in the peculiar facts of the present case. The notice in the present case is itself is defective and further, there is no finding or satisfaction recorded in relation to concealment or furnishing of inaccurate particulars.

9. For the aforesaid reasons, we hold that no substantial questions of law arises in this appeal. Consequently, this appeal is dismissed.”

10. On identical facts, I also rely on the judgement of Hon'ble Bombay High Court in the case of Mohd. Farhan A Shaikh vs. Deputy Commissioner of Income-tax, Central Circle-1, Belgaum [2021] 125 taxmann.com 253 (Bom)/[2021] wherein the penalty u/s 271(1)(c) was deleted on account of defective penalty notice u/s 271(1)(c) of the Act. The Hon'ble Bombay High Court held that assessment order clearly records satisfaction for imposing penalty on one or other, or both grounds mentioned in section 271(1)(c), a mere defect in notice not striking off irrelevant matter would vitiate penalty proceedings. Considering these facts, and the precedents applicable to these facts, I am of the view that penalty should not be imposed on the assessee. Accordingly, I delete the penalty u/s 271(1)(c) of the Act, and allow the appeal of the assessee.

11. Since, I have deleted the penalty, based on the technical ground, “being notice under section 271(1) (c) of the Act defective”, therefore, other arguments advanced by the learned Counsel for the assessee, on merit of the case, rendered academic and infructuous hence, do not require adjudication.

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

Order pronounced in the open court on 15/01/2026.

Sd/-

(Dr. Arjun Lal Saini)

लेखा सदस्य/Accountant Member

राजकोट /Rajkot
दिनांक/ Date: 15/01/2026

//True Copy//



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

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्ड फाईल/ Guard File

By order/आदेश से,

सहायक पंजीकार
आयकर अपीलीय अधिकरण ,राजकोट