

**IN THE INCOME-TAX APPELLATE TRIBUNAL, MUMBAI“D” BENCH, MUMBAI
BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER AND
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER
ITA No. 7238/MUM/2025(AY: 2012-13)**

RikhabchandVachraj Mehta 1401/1402 necklace view gharonda bldg., 96 walkeshwar road, Girgaon S.O, Mumbai-400004.	vs.	The Income Tax Officer-Circle 19(3) Piramal Chamber, Mumbai-400012.
PAN/GIR No:AACPM0691D		
(Appellant)		(Respondent)

Appellant by	None
Respondent by	Shri AnnavaramKosuri, Sr. AR
Date of Hearing	14.01.2026
Date of Pronouncement	19.01.2026

ORDER

PER VIKRAM SINGH YADAV, AM:

This appeal filed by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'Act') by the learned Commissioner of Income-Tax, National Faceless Appeal Centre[in short, 'CIT(A), NFAC'], Delhi, dated 15.10.2025 for the Assessment Year 2012-13, whereas the assessee has challenged the sustenance of levy of penalty u/s. 271(1)(c) of the Act amounting to Rs. 22,563/- of the Act.

2. None appeared on behalf of the assessee nor was any adjournment application moved. Considering the same and the matter under consideration, it was decided that no useful purpose will be served in adjourning the matter any further and to decide basis material available on record.

3. Briefly the facts of the case are that the assessment in this case was completed u/s. 143(3) of the Act wherein the assessed income was determined at Rs. 50,73,117/- wherein the AO *interalia* made an addition u/s. 14A r/w rule 8D amounting to Rs. 73,020/-. The assessee thereafter carried the matter in appeal before the Id. CIT(A) who has since sustained the said addition. Therefore, as far as the quantum proceedings are concerned, the same have attained finality. Pursuant to the Id CIT(A) order in the quantum proceedings, the AO issued a show cause dated 20.09.2021 and after considering the submissions so filed by the assessee but not finding the same acceptable, the AO recorded his satisfaction and stated that he is of the considered opinion that the assessee has concealed its income to the tune of Rs. 73,020/- within the meaning of section 271(1)(C) of the Act and penalty was levied for furnishing inaccurate particulars of income amounting to Rs. 22,563/- being 100% of the tax sought to be evaded. The assessee carried the matter in appeal before the Id. CIT(A) who has since dismissed the appeal of the assessee. Against the said order, the assessee is in appeal before us.

4. The Id. Sr. DR has been heard and the material available on record has been perused. Firstly, on the perusal of the assessment order passed u/s 143(3), we find that there is no mention of any initiation of penalty proceedings u/s. 271(1)(C) of the Act in the whole body of the assessment order. Therefore, on the ground itself, where the penalty has not been initiated during the course of assessment proceedings, there is no basis for the AO to proceed further and levy the penalty as has happened in the instant case and the penalty deserve to be set aside.

5. Further, we find that the AO has simply referred to the provisions of Rule 8D(iii) and has talked out 0.5% of the average investments held by the assessee and the disallowance of Rs. 73,020/- has been worked out in terms of section 14A r/w rule 8D of the Act. There is no finding in terms of whether the assessee has earned any exempt income during the year and whether any expenses in relation to the exempt income has been claimed by the assessee. Further, there is no finding by the AO as to how the assessee has furnished any inaccurate particulars of his income. Mere fact that in quantum proceedings, the addition has been confirmed by the Id CIT(A) cannot be a basis for levy of penalty. Even the finding recorded by the AO shows complete lack of application of mind wherein he has referred to the assessee concealing his income as well as furnishing inaccurate particulars income interchangeably while levying the penalty u/s. 271(1)(C) of the Act without specifying how the charge of levy of penalty is satisfied in case of the assessee.

6. We, therefore, find that both on account of lack of satisfaction recorded during the course of assessment proceedings for initiation of penalty proceedings as well as lack of specific charge, the penalty so levied by the AO u/s. 271(1)(C) cannot be sustained and the same is hereby directed to be deleted.

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

Order is pronounced on 19.01.2026

Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER

Sd/-
(VIKRAM SINGH YADAV)
ACCOUNTANT MEMBER

Anandi.Nambi(Steno)
MUMBAI

Date: 19.01.2026

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, MUMBAI
6. Guard File

ByOrder

Assistant Registrar
ITAT, MUMBAI