

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“DB” BENCH, AMRITSAR**

**PHYSICAL HEARING**

**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**AND SHRI UDAYAN DAS GUPTA, JM**

**आयकर अपील सं. / ITA Nos.156 to 160/ASR/2023**  
**(निर्धारण वर्ष / Assessment Years: 2011-12 to 2015-16)**

<b>Smt. Himani Goyal Sharma,</b> 19A, Nityanand Nagar, Queens Road Opp. Hotel Sarovar Portico, Jaipur.302021 (Rajasthan)	<b>बनाम/ Vs.</b>	<b>DCIT, Circle-1,</b> Bathinda.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>BDAPS-1237-B</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Sh. Devang Gargieya (Advocate) – Ld. AR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Sh. Charan Dass (Addl. CIT) – Ld. Sr. DR

सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	20-01-2026
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	20-01-2026

**आदेश / O R D E R**

1. Aforesaid appeals by assessee for Assessment Years (AY) 2011-12 to 2015-16 have identical facts and issues viz. confirmation of penalty u/s 271(1)(c) for Rs.5,466/- for AY 2011-12, Rs.1,66,000/- for AY 2012-13, Rs.1,64,500/- for AY 2013-14, Rs.2,28,500/- for AY 2014-15 & Rs.4,53,500/- for AY 2015-16. First, we take up appeal for AY 2011-12 which arises out of an order of learned Commissioner of Income Tax (Appeals), NFAC [CIT(A)] dated 28-03-2023 partially confirming impugned penalty as levied by Ld. AO u/s 271(1)(c) of the Act on 03-12-2018. During hearing, Ld. AR relied on the order of Jaipur

Tribunal in the case of assessee's husband Shri Ajoy Sharma (ITA Nos.543 to 547/JP/2024 dated 22-07-2024) and various other decisions to assail levy of penalty considering the facts of the case. The Ld. Sr. DR stated that the deduction was withdrawn and higher income was offered only after the case was reopened and the wrong claim was detected by the department. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

2. The assessee filed regular return of income declaring net taxable income of Rs.2.99 Lacs. However, the case was reopened on the ground that the deduction claimed Chapter VIA was not in order. In response to notice u/s 148, the assessee declared additional income from other sources for Rs.76,974/- and the same was claimed to be an error and on account of lack of knowledge. The Ld. AO accepted the returned income as well as deduction claim under Chapter VIA but initiated as well imposed impugned penalty for Rs.11,000/- u/s 271(1)(c). Similar assessments were framed for subsequent years as well wherein the assessee, in reopening returns of income, offered additional income from other sources, withdrew claim of house property loss and also withdrew claim of deduction under Chapter VIA. The Ld. AO accepted the returns but levied penalties in similar background. The Ld. CIT(A), rejected reasonable cause claim of the assessee as made u/s 273B and partially confirmed the penalties, inter-alia, on the ground that but for the reopening of the assessment, the assessee would not have disclosed this income. The impugned penalties as levied by Ld.

AO were reduced to half. Aggrieved, the assessee is in further appeals before us in all the years.

3. The undisputed position that emerges is that the returned income of the assessee, for all the years, has been accepted by Ld. AO without any further addition or disallowance. Though the return has been filed in response to reopening notices, however, the assessee has offered true and full particulars of its income in respective reopening returns of income. The argument of Ld. Sr. DR is that but for reopening, the assessee would not have declared higher income.

4. We find that identical issue has been decided favorably by Jaipur Tribunal in the cited case of assessee's husband Shri Ajoy Sharma (supra). The bench, in para-11, relied upon the decision of Hon'ble Rajasthan High Court in the case of **CIT vs. Pushpendra Surana (49 Taxmann.com 12)** and deleted the penalty on the ground that if assessee had filed correct return at the time of the reassessment proceedings and such disclosure is accepted by the revenue without any change then no case of penalty u/s 271(1)(c) could be made out against the assessee. The case of the assessee is also supported by the decision of Hon'ble Delhi High Court in the case of **Pr. CIT vs. Neeraj Jindal (393 ITR 1)** wherein it was held that when AO accepted the revised return filed by the assessee u/s 153A, no occasion arises to refer to the previous return filed u/s 139 of the Act. For all purposes, including for the purpose of levying penalty under Section 271(1)(c) of the Act, the return that has to be looked at is the one filed u/s 153A. Once the AO accepts the revised return filed u/s 153A, the original

return u/s 139 abates and becomes non-est. Now, it is trite to say that the "concealment" has to be seen with reference to the return that is filed by the assessee. Thus, for the purpose of levying penalty u/s 271(1)(c), what has to be seen is whether there is any concealment in the return filed by the assessee u/s 153A, and not vis-a-vis the original return u/s 139. In our considered opinion, similar analogy would apply to the facts of present appeals before us. Therefore, respectfully following these binding judicial precedents and facts being pari-materia the same, we delete the impugned penalties for all the years. The assessee succeeds in its appeals. We order so.

5. All the appeal stand allowed.

Order pronounced on 20<sup>th</sup> January, 2026.

Sd/-  
**(UDAYAN DAS GUPTA  
JUDICIAL MEMBER**

Sd/-  
**(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER**

Dated: 20-01-2026

**आदेश की प्रतिलिपि अग्रेषित /Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AMRITSAR