

IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "B" BENCH

**Before: Shri T.R. Senthil Kumar, Judicial Member And  
Shri Narendra Prasad Sinha, Accountant Member**

**ITA No: 2286/Ahd/2025  
Assessment Year: 2014-15**

Chartered Speed Limited S. No. 474, Sarkhej Bavla Highway, Sanathal Circle, Sarkhej, Ahmedabad-382210, Gujarat <b>PAN: AADCC0802E (Appellant)</b>	Vs	The DCIT, Circle-1(1)(1), Ahmedabad  <b>(Respondent)</b>
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**Assessee Represented: Shri Atik Jain, A.R.  
Revenue Represented: Shri Abhijit, Sr.D.R.**

Date of hearing : 21-01-2026  
Date of pronouncement : 28-01-2026

**आदेश/ORDER**

**PER: T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

This appeal is filed by the Assessee as against the appellate order dated 08-09-2025 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the partial confirmation of penalty levied under section 271(1)(c) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2014-15.

2. Brief facts of the case is that the assessee is Private Limited Company engaged in the business of public transportation in various cities and dealership business. For the Asst. Year 2013-14, assessee filed its Return of Income on 10-09-2014 declaring total income of Rs. 5,79,96,700/-. The return was taken for scrutiny assessment and assessment was passed making following disallowances:

(i) Disallowance u/s. 14A of Rs. 81,667/-

(ii) Disallowance of expenses for increased in authorized share capital of Rs. 1,80,000/-

(iii) Disallowance u/s. 36(1)(iii) of Rs.21,26,536/-

The A.O. also initiated penalty proceedings.

3. Aggrieved against the assessment order, assessee filed an appeal before Ld. CIT(A) who has deleted the addition made u/s. 14A of the Act, however confirmed the remaining two additions. The assessee has not preferred further appeal against the remaining two additions. Thereafter the assessing officer proceeded with the penalty proceedings and levied penalty of Rs.6,89,954/- on the disallowance made u/s. 36(1)(iii) of the Act.

4. Aggrieved against the penalty order, assessee filed an appeal before Ld. CIT(A) who has also confirmed the levy of penalty by holding that the assessee has furnished inaccurate particulars of income relating to the addition made u/s. 36(1)(iii) of the Act, thereby upheld the levy of penalty amounting to Rs.6,89,954/-.

5. Aggrieved against the same, the assessee is in appeal before us raising the following Grounds of Appeal:

1. *On the facts and circumstances of the case and law, the Ld. CIT(A) erred in confirming the action of Ld. A.O. in levying penalty of Rs. 6,89,954/- u/s. 271(1)(c) of the Income Tax Act, 1961.*

2. *Appellant craves leave to add further grounds or to amend or alter the existing grounds of appeal on or before the date of hearing.*

6. Heard rival submissions and perused the materials available on record. The brief fact on the disallowance made u/s. 36(1)(iii) is the assessee made addition (purchase) to the fixed assets in the nature of commercial vehicles amounting to Rs.11,39,78,622/-. The assessee was asked to furnish the details of date of acquisition, source of funds and when the assets (Volvo buses) put to use and compute the interest cost attributable to the loans taken by the assessee and utilized towards acquisition of such assets. The assessee explained that it purchased commercial vehicles which are of two types (1) is ready to use Volvo bus and (2) body chassis which were thereafter worked upon before the vehicle was put to use. There were a time gap between the acquisition of the assets and their original use in the second category of assets. The assessee submitted that the date of acquisition, amount of loans, date of put to use and interest details as follows:

Assets	Amount of Loan	Date of purchase	Date of loan	Date of Put to use	Interest upto assets put to use as repayment schedule of loan
Bus & Body	9998292	29.03.2013	13.04.2013	27.05.2013	83310
Bus 8c Body	28926252	28.06.2013 to 13.08.2013	28.06.2013	24.12.2013	1170682

Bus & Body	31023000		31.08.2013	24.12.2013	781133
Bus & Body	366925	31.05.2013 to 19.06.2016	18.06.2013	09.10.2013 & 21.10.2013	91410
Bus & Body	10341000		23.10.2013	24.12.2013	0
Volvo Bus	20000000	07.09.2013	06.09.2013	13.09.2013	0
Volvo Bus	20000000	07.09.2013	31.05.2013	13.09.2013	0

6.1. On perusal of the same, the assessing officer proposed to disallow the interest cost amounting to Rs.21,26,535/- pertain to the period before the assets put to use by the assessee. The assessee could not explain the details, therefore the assessing officer held these expenses are capital in nature which are required to be capitalized with the cost of the assets and not to be allowed as revenue expenditure as claimed thereby made the addition of Rs.21,26,535/- u/s. 36(1)(iii) of the Act.

6.2. On appeal against the quantum order, the Ld. CIT(A) confirmed the addition but no further appeal preferred by the assessee. Thereafter Ld. A.O. levied minimum penalty u/s. 271(1)(c) of the Act of Rs.6,89,594/-.

6.3. Ld. Counsel for the assessee submitted that there was neither concealment of primary facts nor furnishing inaccurate particulars of income before the Income Tax Authorities. The assessee was in bona-fide belief that after purchase of body chassis and convert into bus is passive put to use. Further the timing difference and interest prior to put to use (Registration certificate, date) were to be capitalized and not to be allowed as revenue expenditure is highly debatable issue. Though it is a legal claim of the assessee not

allowed by the department, the same cannot tantamount to furnishing inaccurate particulars of income as held by the Hon'ble Supreme Court in the case of Reliance Petro Products Pvt. Ltd. reported in 189 taxmann.com 322.

6.4. Ld. Counsel also placed on record on similar disallowance u/s. 36(1)(iii) wherein Chandigarh Bench of ITAT in M/s. Jain Shawis & Textile Mills vs. ACIT in ITA No. 822/Chd/2015 dated 16-03-2016 cancelled the levy of penalty u/s. 271(1)(c) of the Act. Similarly in the case of ACIT vs. M/s. Vyanjan Hotel Pvt. Ltd. in ITA No. 5257/MUM/2016 dated 31-12-2018 and Delhi Tribunal in the case of M/s. Lala harbhagwan Dass Memorial & Dr. Prem Hospital (P.) Ltd. vs. ITO in ITA No. 5023/Del/2011 dated 13-04-2012. Therefore Ld. Counsel requested to delete the penalty levied u/s. 271(1)(c) of the Act.

7. Per contra Ld. Sr. D.R. appearing for the Revenue strongly supported the orders passed by the Lower Authorities and requested to confirm the levy of penalty u/s. 271(1)(c) of the Act, specially when the assessee has not preferred further appeal against the quantum addition which was confirmed by Ld. CIT(A).

8. We have given our thoughtful consideration and perused the materials available on record. During the assessment proceedings, the assessee was requested to give the details of the purchase of new commercial vehicles and the interest details and the date of put to use the commercial vehicles, which were clearly declared by the assessee during the assessment proceedings. Though the assessing officer disallowed the expenses of Rs. 21,26,535/- being

capital in nature and required to be capitalized with the cost of the assets and not to be allowed as revenue expenditure. This issue has attained finality.

8.1. Ld. Counsel for the assessee also submitted that in subsequent year, assessee company not made such claim and the interest expense is capitalized to the capital goods. Thus it cannot be said that the assessee has made inaccurate particulars of income. The Hon'ble Supreme Court has held that making incorrect claim cannot tantamount to furnishing inaccurate particulars. Hon'ble Supreme Court held if we accept the contention of the Revenue then in case of every Return whether the claim is not accepted by the assessing officer for any reason, the assessee will invite penalty u/s. 271(1)(c) and which is not the clear intendment of the legislature by observing as follows:

*"...10. It was tried to be suggested that Section 14A of the Act specifically excluded the deductions in respect of the expenditure incurred by the assessee in relation to income which does not form part of the total income under the Act. It was further pointed out that the dividends from the shares did not form the part of the total income. It was, therefore, reiterated before us that the Assessing officer had correctly reached the conclusion that since the assessee had claimed excessive deductions knowing that they are incorrect; it amounted to concealment of income. It was tried to be argued that the falsehood in accounts can take either of the two forms; (i) an item of receipt may be suppressed fraudulently; (ii) an item of expenditure may be falsely (or in an aggregated amount) claimed, and both types attempt to reduce the taxable income and, therefore, both types amount to concealment of particulars of one's income as well as furnishing of inaccurate particulars of income. We do not agree, as the assessee had furnished all the details of its expenditure as well as income in its Return, which details, in themselves, were not found to be inaccurate nor could be viewed as the concealment of income on its part. It was up to the authorities to accept its claim in the Return or not. Merely because the assessee had claimed the expenditure, which claim was not accepted or was not acceptable to the Revenue, that by itself would not, in our opinion, attract the penalty under Section 271(1)(c). If we accept the contention of the Revenue then in case of every Return where the claim made is not accepted by Assessing Officer for any reason, the assessee will invite penalty under Section 271(1)(c). That is clearly not the intendment of the Legislature.*

11. In this behalf the observations of this Court made in *Sree Krishna Electrical v. State of Tamil Nadu & Anr.* [(2009) 23VST 249 (SC)] as regards the penalty are apposite. In the aforementioned decision which pertained to the penalty proceedings in Tamil Nadu General Sales Tax Act, the Court had found that the authorities below had found that there were some incorrect statements made in the Return. However, the said transactions were reflected in the accounts of the assessee. This Court, therefore, observed:

"So far as the question of penalty is concerned the items which were not included in the turnover were found incorporated in the appellant's account books. Where certain items which are not included in the turnover are disclosed in the dealer's own account books and the assessing authorities include these items in the dealer's turnover disallowing the exemption, penalty cannot be imposed. The penalty levied stands set aside."

*The situation in the present case is still better as no fault has been found with the particulars submitted by the assessee in its Return."*

8.2. Thus in our considered view, Ld. CIT(A) is not correct in confirming the levy of penalty u/s. 271(1)(c) of the Act, since making an incorrect claim by the assessee, cannot amount to furnishing inaccurate particulars of income. Thus the grounds raised by the assessee is hereby allowed.

9. In the result, the appeal filed by the Assessee is allowed.

Order pronounced in the open court on 28 -01-2026

**Sd/-**  
**(NARENDRA PRASAD SINHA)**  
**ACCOUNTANT MEMBER** *True Copy*  
**Ahmedabad : Dated 28/01/2026**

**Sd/-**  
**(T.R. SENTHIL KUMAR)**  
**JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)

5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद