

IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, CHANDIGARH

PHYSICAL HEARING

BEFORE HON’BLE SHRI RAJPAL YADAV, VICE PRESIDENT
AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं. / ITA No.447/CHANDI/2024
(निर्धारण वर्ष / Assessment Year: 2010-11)

ITO Ward-4 Aaykar Bhawan, B.C. Bazar Ambala Cantt., Haryana - 133001	बनाम/ Vs.	Shri Surinder Kumar Verma H. No. 38, Kabir Nagar Ambala Cantt., Haryana - 133001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ACSPV-3298-B		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	None
प्रत्यर्थीकीओरसे/Respondent by	:	Sh. Dr. Ranjit Kaur (Addl. CIT) – Ld. Sr. DR

सुनवाईकीतारीख/Date of Hearing	:	27.01.2026
घोषणाकीतारीख /Date of Pronouncement	:	28.01.2026

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment Year (AY) 2010-11 arises out of an order of learned Commissioner of Income Tax (Appeals), NFAC [CIT(A)] dated 24-02-2024 deleting penalty of Rs.70,53,886/- as levied by Ld. Assessing Officer [AO] u/s 271(1)(c) of the Act vide order dated 21-09-2015. At the time of hearing, none appeared for assessee. The Ld. Sr. DR pleaded for restoration of penalty as levied by Ld. AO. Upon perusal of case records, the appeal is disposed-off as under.

2. It emerges that an assessment was framed u/s 144 on 16-03-2015 wherein Ld. AO made addition of unexplained income u/s 68 / 69 for Rs.226.87 Lacs. Consequently, penalty was initiated for concealment of income in the assessment order and penalty show cause-notices were issued to the assessee u/s 274 r.w.s. 271 during the course of penalty proceedings. The assessee remained non-compliant and accordingly, Ld. AO levied impugned penalty for concealment of particulars of income.

3. Upon further appeal, Ld. CIT(A) considered the explanation as well as case laws as cited by the assessee to assail penalty on merits as well as on legal grounds. On the legal issue, it was contended by the assessee that Assessing Officer was not sure about whether the assessee had concealed his income or furnished inaccurate particulars of income. Though in the assessment order, it was mentioned that the assessee had concealed income, however, the show-cause notices as issued u/s 274 r.w.s. 271 did not specify the exact limb out of the two limbs which was applicable to the case of the assessee. When the AO did not record any satisfaction in absolute terms whether the assessee had concealed income or had furnished inaccurate particulars of income, the levy of penalty would be invalid and deserves to be deleted.

4. The Ld. CIT(A) concurred that Ld. AO, in the assessment order, had initiated penalty for concealment of income, however, in the two show-cause notices as issued by Ld. AO on 16-03-2015 & 07-08-2015, Ld. AO did not struck-off the irrelevant or non-applicable part /

charge and also did not specify the exact charge for which the assessee was being penalized while initiating penalty against the assessee. The two limbs viz. concealment of income and furnishing of inaccurate particulars of income, were separate charges and would carry different connotation / meaning. Non-framing of specific charges would vitiate the penalty proceedings as per settled legal position. Therefore, it was to be accepted that AO had failed to frame specific charge against the assessee for initiation and imposition of penalty u/s 271(1)(c). From perusal of assessment order, penalty order and penalty notices issued u/s 274 r.w.s 271(1)(c), it was evident that the penalty proceedings were initiated on both counts / limbs viz., concealment of income as well as for furnishing of inaccurate particulars of income. The Ld. AO did not specify the exact charge for which the assessee was being penalized while initiating penalty against the assessee. The ratio of decision of Hon'ble Karnataka High Court in **CIT vs. Manjunatha Cotton & Ginning Factory (359 ITR 565)** was applied wherein it was held that notice u/s 274 of the Act should specifically state the grounds mentioned in Section 271(1)(c), i.e., whether it was for concealment of income or for furnishing of incorrect particulars of income. Mere sending of printed form mentioning all the grounds of Sec.271 would not satisfy the requirement of law. The assessee should know the grounds which he has to meet specifically otherwise the principles of natural justice would be offended. On the basis of such proceedings, no penalty could be imposed on the assessee. This decision was followed

extensively in catena of judicial pronouncements rendered by various Hon'ble High Courts as well as different benches of Tribunal. Finally, the impugned penalty was held to be non sustainable on legal grounds against which the revenue is in further appeal before us.

5. From the findings of Ld. CIT(A), it clearly emerges that the both the show-cause notices as issued by Ld. AO u/s 274 r.w.s. 271 are vague in nature and the same do not specify exact limb out of two limbs of Sec.271(1)(c) which was applicable to the case of the assessee. Non-framing of specific charges in these notices would vitiate the penalty proceedings as per the cited decision of Hon'ble High Court. The fact of initiating penalty in the assessment order is not sufficient compliance since penalty proceedings are separate proceedings. The Ld. AO was required to frame specific charge against the assessee in the show-cause notices which was not done. This being so, we do not find any error in the adjudication of legal grounds by Ld. CIT(A). The penalty has rightly been deleted on legal grounds.

6. The appeal stand dismissed.

Order pronounced on 28th January, 2026.

-Sd-
(RAJPAL YADAV)
VICE PRESIDENT

-Sd-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated: 28-01-2026

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 CHANDIGARH