

**आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH KOLKATA**

**Before Shri Rajesh Kumar, Accountant Member and  
Shri Pradip Kumar Choubey, Judicial Member**

**ITA No.2123/Kol/2025  
Assessment Year: 2015-16**

**Ramesh Chowdhury.....Appellant  
7, Padda Pukur Road,  
Kol – 700020.  
[PAN: ACSPC5253B]**

**vs.**

**ITO, Ward-31(4), Kolkata.....Respondent**

**Appearances by:**

S. K. Kamaluddin, CA, appeared on behalf of the appellant.

Shri S B Chakraborty, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : January 06, 2026

Date of pronouncing the order : January 28, 2026

**ORDER**

**Per Pradip Kumar Choubey, Judicial Member:**

This appeal filed by the assessee is directed against the order dated 22.07.2025 of the National Faceless Appeal Centre (hereinafter referred to as the "CIT(A)") passed u/s 250 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") for the assessment year 2015–16.

2. Facts in brief are that the assessee is an individual and filed its original return of income declaring income of Rs. 8,68,870/- for the A.Y. 2015-16. Further the case of the appellant was selected for the scrutiny and the notice u/s. 143(2) was issued. The assessment was completed u/s 143(3) of Act after making the disallowance on account of sundry creditors Bills amounting to Rs.38,35,643/-. The Assessing Officer also initiated penalty proceedings u/s 271(1)(c) of Act.

3. Aggrieved by the said order, the assessee preferred appeal before the ld. CIT(A), wherein, the appeal of the assessee has been dismissed

and the penalty u/s 271(1)(c) as made by the Assessing Officer was confirmed by ld. CIT(A).

4. Being aggrieved, the assessee is in appeal before us. At the time of hearing, the learned counsel of the assessee pressed the Ground No.1 raised before us contending that the notice issued u/s 274 r.w.s. 271(1)(c) of the Act is vague as in the said notice, it was mentioned that 'have concealed the particulars of your income' wherein in the order of the Assessing Officer, the penalty proceedings u/s 271(1)(c) was initiated for 'furnishing inaccurate particulars of income'. The ld. AR, therefore, stated that the Assessing Officer failed to mention any specific charge against the assessee for imposing the penalty u/s 271(1)(c) in this case and the penalty is itself null and void ab initio. Consequently, he argued that the entire proceedings need to be quashed and penalty imposed needs to be deleted in full. In support of his contention, the ld. counsel has placed reliance on the decision of Commissioner of Income-tax v. Manjunatha Cotton & Ginning Factory [2013] 35 taxmann.com 250/218 Taxman 423/359 ITR 565 (Karnataka) wherein it was held that the imposition of penalty under section 271(1)(c) of the Act is bad in law and invalid for the reasons where the show cause notice under section 274 of the Act did not specify the charge against the assessee as to whether it is for concealment of particulars of income or furnishing of inaccurate particulars of income.

5. Contrary to that, the ld. DR supports the impugned order.

6. We have heard the submissions of the counsels of the respective parties and perused the materials available on record. Before advertng, it will be relevant to reproduce the notice u/s 274 r.w.s 271 of the Act issued by the department, which is as under:

**NOTICE UNDER SECTION 274 READ WITH SECTION 271 OF THE INCOME TAX ACT, 1961**

Office of the Income Tax Officer, Ward-31(4), Kol.  
10B, Middleton Row, 4<sup>th</sup> Floor, Kol-700 071.

PAN – ACSPC5253B

Date: 29.12.2017

To,  
SHRI RAMESH CHOWDHURY  
7, Padda Pukur Road,  
Kolkata-700 020.

Whereas in the course of proceedings before me for the Assessment Year: 2010-11 it appears to me that you:-

~~\*have without reasonable cause failed to furnish me return of income which you were required to furnish by a notice given under section 139(1) or by a notice given under section 139(2)/148 of the income tax act, 1961, dated ..... or have without reasonable cause failed to furnish it within the time allowed and the manner required by the said section 139(1) or by such notice.~~

~~Have without reasonable cause failed to comply with a notice under section 143(2) of the Income Tax Act, 1961 and/or notice u/s 142(1).~~

**have concealed the particulars of your income.**

You are hereby requested to appear before me at 02:10 A.M./P.M. on 24.01.2018 and show cause why an order imposing penalty on you should not be made under section 271(1)(c) of the Income-tax Act, 1961. If you do not wish to avail yourself of this opportunity of being heard in person or through authorised representative you may show cause in writing on or before the said date which will be considered before any such order is made under section 271.

6.1 We find that in the above notice u/s 274 r.w.s. 271 of the Act dated 29.12.2017, the Assessing Officer has mentioned that 'have concealed the particulars of your income'. In this context, we also find that in the 2<sup>nd</sup> page of the order of the Assessing Officer, the Assessing Officer mentioned as under:

04.	Kavita Enterprise 19, Elgin Road, Kolkata-700020	Notice u/s u/s 133(6) issued on 05.09.2017, reply has been received on 25.09.2017.	It is seen from the reply that the M/S Kavita Enterprise provided service as pilling contractor to the assessee during the year and raised a bill of Rs. 25,00,000/- on 11.03.2015 on this contract work and no payment has been made by the assessee to the contractor during the period. The assessee could not provide the details and necessity of pilling work. Hence it seems that the bills are fabricated and the expenditure in this regard are bogus and the same added back to the total income of the assessee.
Penalty proceedings u/s 271(1)(c) is being initiated separately for this issue.			for furnishing inaccurate particulars of income on [Addition: Rs. 38,35,643/-]

6.2 On perusal of the above, we find that the Assessing Officer in his order while initiating the penalty proceedings u/s 271(1)(c) had mentioned that 'furnishing inaccurate particulars of income' and the notice u/s 274 r.w.s. 271 of the Act dated 29.12.2017, the Assessing Officer itself mentioned 'have concealed the particulars of your income'. We note that the Assessing Officer failed to clearly specify as to what limb, the penalty was proposed to be levied. In other words, the Assessing Officer has stated both the limbs in different times for imposing the said penalty in this case. Therefore, we find merit in the contention of the assessee that the notice has been issued in a mechanical manner without application of mind, with the result that assessee could not reply the correct charge under which the penalty was proposed to be levied. We further find that Hon'ble Jurisdictional High Court in the case of KPC Medical College and Hospital vs. PCIT reported in [2025] 173 taxmann.com 581 (Calcutta) dated 19-03-2025 on similar issue has decided in favour of the assessee following the cited decision of Id. counsel in the case of CIT v. Manjunatha Cotton & Ginning Factory (supra) by observing and holding as under: -

*"13. We have perused the notice and we find that none of the relevant columns have been indicated nor have the irrelevant columns been struck off. Identical issue came up for consideration wherein one of the questions which was*

considered was with regard to the validity of the notice issued under Section 274 read with 271 wherein the Court also took into consideration the effect of Section 271AAB read with 162 and answered the questions in favour of the assessee and against the revenue in the following terms :

"In CIT v. SSA'S Emerald Meadows [\[2016\] 73 taxmann.com 241 \(Karnataka\)](#) the High Court of Karnataka following the decision in Commissioner of Income-tax v. Manjunatha Cotton & Ginning Factory [\[2013\] 35 taxmann.com 250/218 Taxman 423/359 ITR 565 \(Karnataka\)](#) held that the imposition of penalty under section 271(1)(c) of the Act is bad in law and invalid for the reasons where the show cause notice under section 274 of the Act did not specify the charge against the assessee as to whether it is for concealment of particulars of income or furnishing of inaccurate particulars of income. The said decision of the High Court of Karnataka was affirmed by the Hon'ble Supreme Court in the decision reported in Commissioner of Income-tax v. SSA'S Emerald Meadows [\[2016\] 73 taxmann.com 248/242 Taxman 180 \(SC\)](#). On the same lines it is the decision of this court in Pr. CIT v. Brijendra Kumar Poddar in [ITAT No. 215 of 2018, dated 23-11-2021]. As pointed out earlier, the show cause notice issued under Section 274 read with Section 271 of the Act did not furnish any particulars and all the relevant columns have been left blank. Thus, by applying the legal position in the aforementioned decision, this court has no hesitation to hold that the show cause notice was bad in law consequently the initiation of penalty proceedings is vitiated."

**14.** Thus, for the above reasons, the appeals filed by the assessee are allowed and the substantial questions of law are answered in favour of the assessee."

7. Respectfully following the above decision of the Hon'ble Jurisdictional High Court, we hold that the said notice issued u/s 274 r.w.s. 271 of the Act dated 29.12.2017 of the Act is invalid and accordingly, the consequent penalty order framed is also invalid and is hereby quashed.

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

**Kolkata, the 28<sup>th</sup> January, 2026.**

Sd/-  
**[Rajesh Kumar]**  
Accountant Member

Sd/-  
**[Pradip Kumar Choubey]**  
Judicial Member

Dated: 28.01.2026.

RS

*Copy of the order forwarded to:*

1. Appellant -
2. Respondent -
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches