

आयकर अपीलीय न्यायाधिकरण, विशाखापट्टनम बेंच में,  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Visakhapatnam Bench, Visakhapatnam**

श्री विजय पाल राव, माननीय उपाध्यक्ष एवं श्री ओम्कारेश्वर चिदारा, माननीय लेखा सदस्य

**SHRI VIJAY PAL RAO, HON'BLE VICE PRESIDENT**  
**AND**

**SHRI OMKARESHWAR CHIDARA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपीलसं./I.T.A.No.634/Viz/2025  
(निर्धारण वर्ष/ Assessment Year: 2015-16)

Dredging Corporation of India Visakhapatnam PAN : AAACD6021B <b>(अपीलार्थी/ Appellant)</b>	Vs.	Asst.Commissioner of Income Tax Circle-3(1) Visakhapatnam <b>(प्रत्यर्थी/ Respondent)</b>
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri G.V.N.Hari, Advocate (Hybrid)
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri Badicala Yadagiri, CIT(DR)
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	22.01.2026
घोषणा की तारीख/ Date of Pronouncement	:	13.02.2026

**ORDER**

**PER OMKARESHWAR CHIDARA, A.M :**

This appeal filed by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in DIN & Order No.ITBA/NFAC/S/250/2025-26/1079619164(1) dated 14.08.2025, arising out of penalty

order passed by the Ld.AO u/s 271(1)(c) of the Income Tax Act, 1961 (“the Act”), pertaining to the assessment year 2015-16.

2. In the above cited assessee’s appeal, the appellant company is aggrieved, because the penalty levied by Ld.AO was confirmed by Ld.CIT(A).

3. From the appeal order of Ld.CIT(A) on penalty, it is observed that additions made by Ld.AO in assessment order were confirmed as under :

*“3.1. Aggrieved by the assessment order u/s 143(3) dated 18.12.2017, the assessee filed an appeal before the CIT(A), Visakhapatnam on the following grounds :*

- (i) Sale of scrap amounting to Rs.3,49,99,784/-*
- (ii) Sale of empties amounting to Rs.8,65,345/-*
- (iii) Sale of waste oil amounting to Rs.17,03,358/-*
- (iv) Recovery towards leased quarter amounting to Rs.3,30,665/-*
- (v) Exchange differences amounting to Rs.58,96,009/-*
- (vi) Condemned machinery scrapped sale amounting to Rs.2,69,23,862/-*
- (vii) Staff car recoveries amounting to Rs.61,560/-*
- (viii) Sale of tender documents amounting to Rs.2,94,250/-*
- (ix) Rec.for liquidated damages amounting to Rs.2,21,31,709/-*
- (x) Rent of hiring quarters/offices amounting to Rs.1,49,292/-*

(xi) Others amounting to Rs.10,09,087/-

3.2. Ld.CIT(A) vide order dated 21.08.2020 has partly allowed the appeal of the assessee on the point (i),(ii), (iii), (v and (vi) to e and treated this income as income from core activities of shipping. The Ld.CIT(A) on ground nos. (iv), (vii), (viii), (ix), (x) and (xi) has dismissed the appeal of the assessee and confirmed the addition made by the AO in the assessment order, which are as under :-

(iv) Recovery towards leased quarter amounting to Rs.3,30,665/-

(vii) Staff car recoveries amounting to Rs.61,560/-

(viii) Sale of tender documents amounting to Rs.2,94,250/-

(ix) Rec.for liquidated damages amounting to Rs.2,21,31,709/-

(x) Rent of hiring quarters/offices amounting to Rs.1,49,292/-

(xi) Miscellaneous income- Rs.10,09,087/- ”

4. The Ld.CIT(A) held that the assessee company did not disclose the correct income voluntarily, and, but for the scrutiny, the above cited incomes would not have been brought to tax net. Since there is leakage of Revenue to national exchequer, the Ld.CIT(A) held that the appellant company had concealed the particulars of income and also furnished inaccurate particulars of income. Hence, the penalty levied by the Ld.AO was confirmed.

5. Aggrieved by the above order of Ld.CIT(A), the present appeal is filed by appellant company with the sole ground stating that the order of Ld.CIT(A) is not justified. Subsequently, the appellant

company filed an additional ground, stating that the notice issued by the Revenue is ambiguous, hence not valid, because the relevant limb for which penalty was proposed to be levied, i.e. whether for “concealment of income” or for “furnishing of inaccurate particulars of income” was not specified by ticking the appropriate limb or by striking off the irrelevant limb. During the hearing proceedings before ITAT, the Ld.AR of appellant company has argued that before going into the merits of the case, the point to be adjudicated is, whether the notice issued relating to penalty itself is valid or not. The Ld.AR of appellant company has also filed a copy of penalty notice issued by the ACIT-3(1), Visakhapatnam to demonstrate that the AO has not cancelled the irrelevant limb, which created confusion, as to which irregularity was committed by the appellant. The Ld.AR of appellant has filed a paper book, containing copy of assessment order, copy of penalty order, copy of show cause notice dated 01/02/2022, reply filed by appellant before the AO and copy of ITAT order, which confirmed additions made by AO. Reliance was placed by him on the decision of PCIT Vs. Baisetty Revathi, 398 ITR 88(AP) and 3 decisions of coordinate Bench (Visakhapatnam) for the proposition that, non-striking the irrelevant limb will go to the root of the matter and this ambiguity in show cause notice was further compounded presently by

confused finding of the officer that he was satisfied that the appellant was guilty of both. The jurisdictional High Court in the case of Baisetty Revathi (supra) has categorically held that the AO should form an opinion as to which limb of the notice is going to be pressed into service to levy penalty. The operative portion of the same is reproduced :

Reliance placed by the revenue upon MAK DATA PRIVATE LIMITED V/s. COMMISSIONER OF INCOME TAX-II (2014) 1 SCC 674 = 358 ITR 593, is of no assistance as the Supreme Court merely observed therein that the Assessing Officer is not required to record his satisfaction in a particular manner while imposing the penalty or reduce it to writing. That is not the controversy in the case on hand. On principle, when penalty proceedings are sought to be initiated by the revenue under Section 271(1)(c) of the Act of 1961, the specific ground which forms the foundation therefor has to be spelt out in clear terms. Otherwise, an assessee would not have proper opportunity to put forth his defence. When the proceedings are penal in nature, resulting in imposition of penalty ranging from 100% to 300% of the tax liability, the charge must be unequivocal and unambiguous. When the charge is either concealment of particulars of income or furnishing of inaccurate particulars thereof, the revenue must specify as to which one of the two is sought to be pressed into service and cannot be permitted to club both by interjecting an or between the two, as in the present case. This ambiguity in the show-cause notice is further compounded presently by the confused finding of the Assessing Officer that he was satisfied that the assessee was guilty of both.

We are therefore of the opinion that the order under appeal does not brook interference on any ground. We find no question of law, much less a substantial one, arising for consideration warranting admission of this appeal.

The appeal is accordingly dismissed. No order as to costs.

6. The above decision of jurisdictional Bench was followed by below mentioned co-ordinate Bench decisions also :

- (i) Visakhapatnam Industrial Water Supply Company Ltd. Vs. Dy.CIT-Circle 5(1) in ITA No.657/Viz/2025 dated 19.12.2025
- (ii) Saradambika Power Plant Pvt.Ltd. Vs.ACIT in ITA No.281/Viz/2025 dated 27.10.2025
- (iii) Konchada Sreeram Vs. ITO in ITA No.388/Viz/2015 dated 06.10.2017

7. In view of the above, it is held that the penalty notice issued by Ld.AO is invalid and the appeal of the appellant company is allowed. Since the penalty notice itself is held invalid, all the consequent proceedings like adjudicating the issues on merits is academic.

8. In the result, the appeal of the appellant company is allowed.

Order pronounced in the Open Court on 13<sup>th</sup> February, 2026.

<p>Sd/- (विजय पाल राव) <b>(VIJAY PAL RAO)</b> उपाध्यक्ष /VICE PRESIDENT</p>	<p>Sd/- (ओम्कारेश्वर चिदारा) <b>(OMKARESHWAR CHIDARA)</b> लेखा सदस्य/ACCOUNTANT MEMBER</p>
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Visakhapatnam  
dated 13.02.2026.  
**L.Rama/sps**

आदेशकी प्रतिलिपि अग्रेषित/ **Copy of the order forwarded to:-**

<b>1.</b>	निर्धारिती/ The Assessee	:	M/s Dredging Corporation of India Limited, Dredge House, H.B.Colony, Main Road, Seethammadhara, Visakhapatnam
<b>2.</b>	राजस्व/ The Revenue	:	The Asst.Commissioner of Income Tax, Circle- 3(1), Infinity Towers, Shankaramatham Road, Santhipuram, Visakhapatnam
<b>3.</b>	The Principal Commissioner of Income Tax, Visakhapatnam		
<b>4.</b>	विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापट्टनम / The DR, ITAT, Visakhapatnam		
<b>5.</b>	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam