आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH, CHENNAI

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री इंटूरी रामा राव, लेखा सदस्य के समक्ष

BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं./**ITA No.: 3054/CHNY/2025**

निर्धारण वर्ष/Assessment Year:2015-16

The Asst. Commissioner of Income Tax, Central Circle – 2, Coimbatore	Vs.	**Sri Maheswary Granites (P) Ltd.,** Old No.115, New No.84, Bashyakarlu Road West, R.S.Puram, Coimbatore **PAN: AAFCS 9118K**
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Ms. V. Aswathy, JCIT
प्रत्यर्थी की ओर से/Respondent by : Shri K.M.C.R. Mohan, Advocate

सुनवाई की तारीख/Date of Hearing : 19.02.2026
घोषणा की तारीख/Date of Pronouncement : 20.02.2026

आदेश/ O R D E R

PER GEORGE GEORGE K, VICE PRESIDENT:

This appeal filed by the Revenue is directed against the order of Commissioner of Income Tax (Appeals), Chennai-20, dated 26.08.2025 passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2015-16.

2. The grounds raised by the department read as follows:-

1. *The Order of the learned Commissioner of Income Tax (Appeals) is erroneous on facts and in law.*
2. *The Ld.CIT(A) erred in deleting Rs.69,71,783/- levied as penalty u/s 271AAB(1) (c).*
3. *The Ld.CIT(A) erred in relying on the decision of Manjunatha Cotton & Ginning Factory [2013] 359 ITR 565/218 Taxman 423/35 taxmann.com.250 & Commissioner of Income-tax v. SSA'S Emerald Meadows [2016] 73 taxmann.com 248 (SC) to render relief to the assessee without taking cognizance of the decision of the Hon'ble Supreme Court of India in Gangotri Textiles Ltd. v. Deputy Commissioner of Income-tax [2022]137 taxmann.com 198 (SC) wherein it has dismissed the SLP filed by the assessee against the order of the Hon'ble High Court of Madras on the contention that notice issued under section 274 read with section 271(1)(c) was defective on the ground that the Assessing Officer did not apply his mind while issuing the notice on the ground that the grounds for penalty are clearly dealt in the assessment order.*
4. *For these grounds and any other ground including amendment of grounds that may be raised during the course of appeal proceedings, the Order of the Ld CIT(Appeals) may be set aside and that of the Assessing Officer may be restored.*

3. Brief facts of the case are as follows: The assessee is a private limited company engaged in the business of manufacturing and trading of granite and marbles. The business premises of the assessee was subjected to search u/s.132 of the Act on 12.02.2025, in consequence of a search of businesses at Nagpur belonging to the brother of the Managing Director of the assessee company. For the assessment year 2015-16, assessee company had filed its return of income on 23.01.2016 declaring total income of Rs.1,61,24,840/-. Notice u/s.153A of the Act was issued to the

assessee company for the assessment year 2009-10 to 2014-15 on 06.05.2016. For the assessment year 2015-16, the return of income was selected for scrutiny being search year and notice u/s.143(2) of the Act was issued on 12.09.2016. During the course of assessment proceedings, the AO noted that returned income of Rs.1,61,24,840/- includes additional income of Rs.80,00,000/- towards excess stock and Rs.20,00,000/- towards disclosure made during the course of search proceedings at Nagpur. The AO further noted that excess stock of Rs.2,32,39,276/- was found during the search proceedings. Since assessee had already offered Rs.80 lakhs in the returned income, the AO proposed addition of balance amount of Rs.1,52,39,276/- (Rs.2,32,39,276 – Rs.80,00,000). Further, the AO observed that certain payments were supported only by self-made vouchers and details of the recipients are not fully given in the vouchers, hence, the genuineness of such payment could not be verified. Aggregate of such self-made vouchers came to Rs.14,25,000/- which also proposed to be disallowed by the AO in absence of verifiable evidences. The assessee raised objections to the proposal. However, the objections were rejected and assessment was completed u/s.143(3) of the Act on 31.12.2016 as under:-

Returned Income	*Rs.1,61,24,840/-*
Add: Additions towards excess stock	*Rs.1,52,39,276/-*
Add: Disallowance of expenses	*Rs.14,25,000/-*
Assessed income	*Rs.3,27,89,116*

4. Against the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) vide order dated 07.12.2018 in ITA No.549/16-17 partly-allowed the appeal of the assessee by deleting the addition on account of disallowance of expenses. The FAA confirmed the addition in respect of excess stock.

5. In the meanwhile, the AO had also initiated penalty proceedings by issuing notice u/s.274 r.w.s.271AAB of the Act on 31.12.2016. After the CIT(A) order in quantum assessment, the AO levied penalty u/s.271AAB(1)(c) of the Act being 30% of the undisclosed income of Rs.2,32,39,276/- (amount sustained by the CIT(A)).

6. Aggrieved by the order of the AO imposing penalty u/s.271AAB(1)(c) of the Act, amounting to Rs.69,71,783/-, assessee filed appeal before the First Appellate Authority (FAA). Before the FAA, assessee had taken up the contention that notice issued u/s.274 r.w.s 271AAB of the Act does not state the clause under which the penalty has been initiated, hence, the notice being

defective, the order imposing penalty is bad in law. In support of the contentions raised, the assessee relied on various judicial pronouncements which are listed in para 7.1 of the impugned order of the FAA. The FAA after extracting the notice issued u/s.274 r.w.s.271AAB of the Act held that it is necessary for the AO to specify under which clause in section 271AAB(1) of the Act, he intends to proceed against the assessee and in the absence of mentioning the same in the penalty notice, the notice is defective. Accordingly, the CIT(A) held that consequent penalty order is bad in law and deleted the penalty imposed amounting to Rs.69,71,783/-. The CIT(A) specifically relied on the judgment of the Hon'ble Jurisdictional High Court in the case of PCIT vs. Shri R. Elangovan in TCA No.770 & 771 of 2018 (judgment dated 30.03.2021).

7. Aggrieved by the order of the CIT(A), the revenue has filed the present appeal before the Tribunal. The Ld.DR has filed the written submissions, which read as follows:-

> *"I. It is submitted that on the issue of striking off limbs in the penalty notice, the Hon'ble Jurisdictional High court in the following decisions, has consistently held that the penalty notices issued without striking off the irrelevant clause cannot vitiate the entire penalty proceedings, when the taxpayer responded to it in letter and spirit and participated in the proceedings, as no prejudice has been caused to the assessee when assessee by participating in the proceedings has understood the true import of such notice.*

1. Sundaram Finance Ltd. Vs CIT (2018) 93taxmann.com 250 (Madras)/[2018] 403 ITR 407 (Madras)

where Hon'ble Madras High Court held that where notice did not show nature of default, it was a question of fact. The assessee had understood purport and import of notice, and hence, no prejudice was caused to the assessee. It considered decision of Karnataka High Court in CIT v. Manjunatha Cotton & Ginning Factory [2013] 359 ITR 565/218 Taxman 423/35 taxmann.com 250 (Kar.).

Relevant part of the order is reproduced below:

"15. Before us, the assessee seeks to contend that the notices issued under Section 274 r/w. Section 271 of the Act are vitiated since it did not specifically state the grounds mentioned in Section 271(1)(c) of the Act.

16. We have perused the notices and we find that the relevant columns have been marked, more particularly, when the case against the assessee is that they have concealed particulars of income and furnished inaccurate particulars of income. Therefore, the contention raised by the assessee is liable to be rejected on facts. That apart, this issue can never be a question of law in the assessee's case, as it is purely a question of fact. Apart from that, the assessee had at no earlier point of time raised the plea that on account of a defect in the notice, they were put to prejudice. All violations will not result in nullifying the orders passed by statutory authorities. If the case of the assessee is that they have been put to prejudice and principles of natural justice were violated on account of not being able to submit an effective reply, it would be a different matter. This was never the plea of the assessee either before the Assessing Officer or before the first Appellate Authority or before the Tribunal or before this Court when the Tax Case Appeals were filed and it was only after 10 years, 3 when the appeals were listed for final hearing, this issue is sought to be raised. Thus on facts, we could safely conclude that even assuming that there was defect in the notice, it had caused no prejudice to the assessee and the assessee clearly understood what was the purport and import of notice issued under Section 274 r/w, Section 271 of the Act. Therefore, principles of natural justice cannot be read in abstract and the assessee, being a limited company, having

wide network in various financial services, should definitely be precluded from raising such a plea at this belated stage.

17. Thus, for the above reasons, Substantial Questions of law Nos. 1 and 2 are answered against the assessee and in favour of the revenue. The additional substantial question of law, which was framed is rejected on the ground that on facts the said question does not arise for consideration as well as for the reasons set out by us in the preceding paragraphs.

In the result, Tax Case Appeals are dismissed. No costs."

The SLP filed by the assessee against the above decision was dismissed.

2. The Madras HC again in the case of Amtex Software Solutions Pvt Ltd vs ACIT (2019) 418 ITR 99(Mad)(HC) has held that the penalty notice, not specifying the charge could be rectified and was not invalid. The writ to quash the notice was held to be not maintainable. To quote the decision

"In this regard, Section 292B of IT Act, which has been adverted to and which has been relied on by the Revenue counsel comes to the aid of the Revenue. There is no dispute that the impugned SCN qualifies as a notice within the meaning of Section 292B. If that be so, it cannot be held to be invalid merely by reason of mistake or defect i.e., mistake or defect of issuing it in a template and not scoring of the relevant ground and leaving out the applicable ground. If it is not a defect of scoring of the inapplicable ground it is a case of using the conjunction 'and' by scoring of 'or', if it is predicated on both grounds. "

3. The HC again in the case of Gangotri Textiles Ltd. Vs DCIT, in [2020] 121 taxmann.com 171 (Madras) wherein SLP filed by the assessee before Hon'ble SC is dismissed in (2022) 137 taxmann.com 198 (SC), held as under

"Firstly a defect in the notice, if according to the assessee would result in a jurisdictional error, is not merely a pure question of law, but a mixed question of fact and law. If such is the position, the vigilant assessee, more particularly, a listed Company like the assessee before us should point out the factual issue at the very first

instance. If that was not done by the assessee, then it goes to show that the assessee was not prejudiced by the use of the expression 'or'.

4. In another decision in case of The CIT vs N Baskar in TCA no. 239 of 2020, the Hon'ble court referring to its earlier decisions in case of Sundaram Finance Limited and Gangotri Textiles Limited, the court concurring with the ratio laid therein held that they were corporate assessee having wherewithal to effectively manage their finances and getting the best brains to advise them on Income Tax matters. The court also observed as under
"but, we have our own reservation on the aspect as to whether the Tribunal should have entertained a plea regarding the defective show cause notice for the very first time in the appeal filed before the Tribunal, when it was never raised by the assessee at any earlier point of time"

In this case also, the assessee could also not establish that his interest was jeopardized because assessee has not produced any evidence that this issue was raised by the assessee before Assessing Officer during penalty proceedings. Had there been any prejudice to the assessee due to non-striking of the limb in the penalty notice, the same should have been brought to the knowledge of the Assessing Officer, thus giving him/her an opportunity to clarify/rectify the issue.

II. Further, following submissions may kindly be considered with regard to levy of penalty in light of decision of Karnataka High Court in CIT V. Manjunatha Cotton & Ginning Factory [2013] 359 ITR 565 and Hon'ble Supreme Court in case of CIT Vs SSA's Emerald Meadows [2016] 73 Taxmann.com 248 (SC)/[2016] 242 Taxman 180 (SC)

A. Issuance of notice is an administrative device

1. CIT Vs Smt. Kaushalya [1994] 75 Taxman 549 (Bombay)/[1995] 216 ITR 660 (Bombay)

After all, section 274 or any other provision in the Act or the Rules, does not either mandate the giving of the notice or its issuance in a particular form. Penalty proceedings are quasi-criminal in nature. Section 274 contains a principle of natural justice of the assessee being heard before levying penalty. Rules of natural justice cannot be imprisoned in any straight-jacket formula. For sustaining a complaint for failure of principles of natural justice on the ground of absence of opportunity, it has

to be established that prejudice is caused to the concerned person by the procedure followed. The issuance of notice is an administrative device for informing the assessee about proposal to levy penalty in order to enable him to explain as to why it should not be done. Mere mistake in the language used or mere non-striking off of inaccurate portion cannot by itself invalidate the notice

2. In CIT v. Mithila Motors [1984] 16 Taxman 224/149 ITR 751 (Pat), relying on the decision in Kantamani Venkata Narayana & Sons v. Addl. ITO [1967] 63 ITR 638 (SC), wherein it was clarified that a mistake in the notice does not invalidate the penalty proceedings, it was held that even granting that the notice u/s. 274 was defective or bad in law, the penalty proceedings would not fail as no prejudice had been caused to the assessee; all that is required is that the assessee should be given an opportunity of show cause, and no statutory notice has been prescribed in this behalf. Hence, it is sufficient if the assessee was aware of the charges he had to meet and was given an opportunity of being heard. A mistake in the notice would not invalidate penalty proceedings.

B. Reasonable Opportunity of being heard cannot be stretched to Framing a Specific Charge

The Hon'ble Bombay High Court in the case of M/s Maharaj Garage & Company, v. CIT [2017] 85 taxmann.com 86//2018) 400 ITR 292 (Bombay) held that "The requirement of Section 274 of the Income Tax Act for granting reasonable opportunity of being heard in the matter cannot be stretched to the extent of framing a specific charge or asking the assessee an explanation in respect of the quantum of penalty proposed to be imposed, as has been urged. The assessee was supplied with the findings recorded in the order of re-assessment, which was passed on the same date on which the notice under Section 271(1)(c) was issued, initiating the proceedings of imposing the penalty. The assessee had sufficient notice of the action of imposing penalty. It was thus concluded, that there was no jurisdictional error or unjust exercise of power by the authority."

III. To sumamrise, following points may also kindly be considered in this case:

1. The requirement of issuing a notice u/s 274 is merely to give effect to the principles of natural justice and not a jurisdictional necessity.

2. A distinction has to be made between a case of no notice and a case of improper notice.

3. Test of prejudice

As laid down in the State Bank of Patiala & Ors vs. S.K. Sharma (supra) violation of any and every procedural provision cannot be said to automatically vitiate the proceedings or the order. The consequences for violation of the procedural provisions would be as under:-

A. In case of no notice, no opportunity or no hearing, there is obviously a violation of the principles of natural justice and hence the order would get vitiated.

B- In other cases the test of prejudice has to be applied. In case the assessee has not suffered any prejudice on account of the procedural irregularity, nothing needs to be done. However, if some prejudice is caused, the same needs to be remedied by curing the irregularity.

4. In the Manjunatha Cotton case the Hon'ble Karnataka High Court has failed to take note of the decisions of other High Courts already given on the same issue.

The issue of a mistake in the language of the notice issued u/s 274 or not striking off the inapplicable phrase was already decided by the Hon'ble Bombay High Court in the case of CIT vs. Smt. Kaushalya and others 216 ITR 660 relying on CIT v. Mithila Motor's (P.) Ltd. [1984] 149 ITR 751 (Patna)

The Hon'ble Karnataka High Court have not taken cognizance of the aforesaid decision of the Bombay High Court.

5. Participation by the assessee during the course of the proceedings.

The proceedings are vitiated only when the procedural irregularity in question causes some prejudice to the assessee. However, if the assessee participates in the proceeding, he becomes aware about the nature of charges for which the proceedings were initiated. Hence, in such a situation there can be no reason for any prejudice to the assessee. Hence, the alleged procedural irregularity gets cured by virtue of assessee's participation.

6. Minor defects in the notice need to be ignored u/s 292B

Under the provisions of section 292B no notice issued under the Income Tax Act shall be invalid merely by reason of any mistake, defect or omission in such notice if such notice is in substance and effect in conformity with the intent and purpose of the Act. If the A.O. has not been vigilant enough to strike off the inapplicable clauses, such a mistake would not invalidate the notice due to the provisions of section 2928.

In this regard, we may refer to the decision of the Hon'ble High Court of Allahabad as given in the case of Principal Commissioner of Income Tax, Kanpur vs Shri Sandeep Chandak [2018] 93 taxmann.com 405 (Allahabad) wherein the Hon'ble High Court have affirmed the following finding of the CIT(A):-

> "The Ld. A.Rs have also challenged that the caption of the notice mentioned only Section 271 and not 271AAB. In this respect, the copy of notice has been produced by the Ld. A.R. before me. It is seen that the Ld. A.R. is correct in observing that the section of penalty has not been correctly mentioned by the AO in the caption. However, the AO will get the benefit of section 292BB of the Income Tax Act, 1961 because firstly, the assessee has raised no objection before the AO in this regard. Secondly, last line of the notice clearly mentions section 271AAB. Thirdly, the assessee has given reply to said notice which shows that the assessee fully comprehended the implication of the notice that it is for section 271AAB." [Para 27]

It is also useful to refer to the observations made by Hon'ble Delhi High Court in the case of The CIT vs. M/s Sudev Industries Limited Income Tax Appeal No. 805/2005 [2018] [2018] 405 ITR 325 (Delhi) as under: -

> "16. Section 292B was introduced by Taxation Laws (Amendment) Act, 1975 with effect from 1st October, 1975. The object and purpose of introducing the said section as explained in Commissioner of Income Tax versus M/s Jagat Novel Exhibitors Private Limited, [2013] 356 ITR 562 (Del) is as under. -
>
> 29. Object and purpose behind Section 292-B is to ensure that technical pleas on the ground of mistake, defect or omission should not invalidate the assessment proceedings. The primary requirement

is to go into and examine the question of whether any prejudice or confusion was caused to the assessee. If no prejudice/confusion was caused, then the assessment proceedings and their consequent orders cannot and should not be vitiated on the said ground of mistake, defect or omission in the summons/notice." [Para 16]

7. Rules of procedure are handmaid of justice to advance the cause of justice and not to obstruct it

In this regard, we may refer to the following observations recorded by Hon'ble Delhi High Court in the case of The CIT vs. M/s Sudev Industries Limited (supra)

"It is often stated that rules of procedure are handmaid of justice for the objective of prescribing procedure is to advance the cause of justice and not to obstruct and give technical objections primacy and position to strike down orders, when no prejudice or harm is otherwise caused and suffered.

8. Effect of SLP dismissal in the case of M/s SSA's Emerald Meadows

While hearing such a petition, the Court does not exercise its appellate jurisdiction. It merely exercises its discretionary jurisdiction to grant or not to grant leave to appeal. The petitioner still remains outside the gate of entry though aspiring to enter the appellate arena of Supreme Court. An order refusing SLP or special leave to appeal may be a non-speaking order or a speaking one. In either case, it does not attract the doctrine of merger. All that it means is that the Court was not inclined to exercise its discretion so as to allow the appeal being filed.

The Apex Court has repeatedly held as in the case of Indian Oil Corporation Ltd. v. State of Bihar and Ors. AIR 1986 SC 1780, that the implication of the dismissal of SLP via a non-speaking order, without anything more indicating the grounds or reasons of its dismissal, must, by necessary implication, be taken to be that Apex Court had decided only that it was not a fit case where special leave should be granted.

Turning down SLP does not amount to confirmation of HC order in M/s SSA's Emerald Meadows. The SLP dismissal order in M/s SSA's Emerald Meadows is a non-speaking order.

9. Conclusion

In the present case, the assessment order clearly records the facts of search, undisclosed income detected, non-admission/non-substantiation under 132(4), and initiation of penalty u/s 271AAB(1)(c). There is clear application of mind by AO. Hence, notice is valid following Gangotri Textiles (SC).

271AAB is a complete code distinct from 271(1)(c). The two limbs ("concealment" vs "inaccurate particulars") do not apply to 271AAB. Penalty u/s 271AAB(1)(c) @ 60% is levied only when undisclosed income is not covered under clauses (a) or (b) i.e., not admitted in 132(4) statement or manner not properly substantiated and tax not paid timely. The notice clearly states penalty u/s 271AAB. Assessee knew exactly that it was the 60% slab (non-cooperation/non-admission). The assessee understood the notice, replied to the notice and no prejudice caused. Several ITATs have held that Manjunatha Cotton line does not strictly apply to 271AAB notices (or applies in diluted form).

The assessee
1. Never raised the issue of defective notice before the AO. Therefore, objection raised for the first time before CIT(A) is afterthought and liable to be rejected (consistent view of ITAT & High Courts).

2. Satisfaction validly recorded in assessment order and Jurisdiction properly assumed.

3. No prejudice to Assessee (Key point from Gangotri & later cases):

- *Assessee filed detailed reply to the penalty notice and penalty order.*
- *He fully understood the charge ie., technical defect, even if any, is curable & not fatal.*

4. CIT(A) order is cryptic & non-speaking on this vital aspect (ignored Gangotri entirely).

Penalty u/s 271AAB is automatic once undisclosed income is detected in search and conditions of clause (c) are satisfied (subject to reasonable cause u/s 273B). Levy 60% is statutory and mandatory in such cases. The notice issued clearly states the penalty and there were no limbs to be striked off. It is further submitted that the notice issued under section

271AAB clearly mention the section of the penalty. Section 271AAB does not operate on multiple "limbs" as under section 271(1)(c). The penalty is linked to the existence of "undisclosed income" detected in search. Therefore, the contention regarding non-striking off of limbs and alleged non-application of mind is misconceived and inapplicable in the context of section 271AAB. The assessee has filed reply to the penalty notice and the Assessing Officer has further duly recorded, in the assessment order itself, a clear finding regarding the existence of undisclosed income detected during the course of search and the applicability of clause (c) of section 271AAB(1).”

8. The Ld.AR apart from relying on the findings of the CIT(A), relied on the Chennai Bench order of the Tribunal in the case of DCIT vs. Ethirajulu Vajravel Kumaran in ITA Nos.1650 to 1655/CHNY/2025 (order dated 21.10.2025).

9. We have heard rival submissions and perused the material on record. The AO had issued Penalty Notice u/s. 274 r.w.s. 271AAB of the Act on 31.12.2016. The AO is empowered to impose penalty under three contingencies, namely clause (a), (b) & (c) of section 271AAB(1) of the Act:-

(a) 10% of undisclosed income, if assessee in course of search, admits the undisclosed income and pay the due prior to due date.

(b) 20% of undisclosed income, if assessee in course of search, does not admit the undisclosed income, but pays the due prior to due date.

(c) 30%-90% of undisclosed income, if not covered under clause (a) or (b).

10. The AO is duty bound to notify under which limb of section 271AAB of the Act, he proposes to levy penalty so as to enable the Assessee to give their reply. If the AO issues a notice u/s. 274 r.w.s.217AA of the Act, without specifying the limb under which he proposes to proceed against the assessee, the assessee shall be left uninformed of the charge he must defend, which is nothing but violation of Principles of Natural Justice. This proposition of law was laid down by the Hon'ble Karnataka High Court in the case of Manjunatha Cotton & Ginning Factory reported in (2013) 359 ITR 565 (Karnataka) and confirmed by the Hon'ble Supreme Court in the case of CIT vs SSA's Emerald Meadows reported in (2016) 73 Taxmann.com 248 (SC) and subsequently followed by the Hon'ble High Court of Madras in the case of Babuji Jacob vs. ITO reported in (2021) 430 ITR 259 (Mad).

11. The Hon'ble Jurisdictional High Court in the case of PCIT v. R. Elangovan (TCA. Nos. 770 & 771 of 2018) had followed the above proposition of law, wherein the Court while dealing with a Penalty Notice issued u/s. 271AAB of the Act held that Penalty Notice which does not specifically mention the provision of law

under which the Assessing Officer proposes to levy penalty is nothing but a defective Penalty Notice and upheld the order of Tribunal which deleted the penalty imposed. The relevant finding of the Hon'ble Jurisdictional High Court is extracted hereunder for ready reference:-

> *"15. As rightly pointed out by the learned counsel appearing for the assessee, Section 271AAB of the Act, which deals with penalty consists of three contingencies. Therefore, the Assessing Officer should point out to the assessee as to under which of the three clauses, he chooses to proceed against the assessee so as to enable the assessee to give an effective reply. Since the same has not been mentioned, the assessee has been denied reasonable opportunity to put forth their submissions. The Tribunal, in paragraph 5 of the impugned order, has verbatim reproduced the penalty notice and we find that the notice is absolutely vague and none of the irrelevant portions had been struck off nor the relevant portions had been marked or indicated. Hence, the Tribunal is right in observing that the penalty could not have been levied based on such defective notice and more particularly, when the assessee has been strenuously canvassing the jurisdictional issue from the inception."*

12. The judgement rendered by the Hon'ble High Court in the PCIT v. R. Elangovan *(supra)* squarely applies to the facts of the present case. Furthermore, said proposition of law laid by the Hon'ble High Court has been followed in number of cases throughout the country by various Co-ordinate Benches of the Income Tax Appellate Tribunal, including this Tribunal. The following are list of judicial pronouncements by various Tribunals across country following the judgment of Hon’ble Madras High Court in the case of PCIT v. R. Elangovan.

i. Rahul Jain v. Dy. CIT [ITA No.1219/CHANDI/2024, dated 18.08.2025)

ii. Pr. CIT v. Industrial Safety Products (P.) Ltd. [2023] 154 taxmann.com 433 (Calcutta))/2023 (7) TMI 241

iii. Giriraj Enterprises v. Dy. CIT [2025] 176 taxmann.com 870 (Pune - Trib.)

iv. St. Joseph's Educational Trust v. Dy. CIT [2025] 175 taxmann.com 284 (Chennai-Trib.)

v. Krishnappa Gowder Kalyanasundaram v. Dy. CIT [IT Appeal No. 1678 (CHNY) of 2024, dated 21-5-2025]

vi. Prakash Asphalting & Toll Highways (India) Ltd. v. ACIT [IT Appeal No. 720/Ind/2024, dated 24.02.2025]

vii. Suresh Kumar v. ACIT [IT Appeal No. 1880/Del/2023, dated 31.01.2025]

viii. Smt. Sonia Singla v. ACIT [IT Appeal No. 1202/Del/2024, dated 30.12.2024]

ix. DCIT vs. Ethirajulu Vajravel Kumaran [ITA Nos.1650 to 1655/CHNY/2025, dated 21.10.2025]

13. The Ld.DR had strongly relied on the judgment of the Hon’ble Jurisdictional High Court in the case of Gangotri Textiles Ltd., *(supra)*. The facts of the case of Gangotri Textiles Ltd vs DCIT *(supra)* is distinguishable. The Assessee in the said case had raised the issue of defective notice at a belated stage. The contention of the defective notice was raised for the first time before the Hon'ble

High Court which lead to dismissal of the said case. Relevant portion of the Judgment is reproduced below for ready reference:-

> *"8. After elaborately hearing the learned counsels on either side and carefully perusing the materials placed before this Court including the decisions relied on by the learned counsels on either side, the first issue to be considered is whether the notice dated 12.03.2015 issued under Section 274 r/w. 271(1)(c) of the Act is defective. The argument of M/s.S.Yogalakshmi, learned counsel for the appellant is that the notice stated that it appears to the Assessing Officer that the assessee concealed the particulars of income or furnished inaccurate particulars of income. It is the argument that the word 'or' has been used and not 'and'. The Assessing Officer did not apply his mind while issuing the notice to state as to whether he was of the prima facie view that the assessee concealed the particulars of income or furnished inaccurate particulars of income. Therefore it is the submission that this defect is inherent, which goes to the root of the matter and all consequential proceedings would have to be rendered as nonest. Among the decisions, which were relied on by M/s. S. Yogalakshmi, learned counsel for the appellant, emphasis was laid on the decision in Manjunatha Cotton and Ginning Factory. This decision is pressed into service to substantiate her contention that if the notice does not specify as to which limb of Section 271(1)(c) is attracted, the penalty proceedings are vitiated. Unfortunately, no such contention was advanced by the assessee at any earlier point of time and for the first time before this Court such a contention is advanced. The submission of the learned counsel is that this, being the question of law, can be raised. We do not agree with the submission for more than one reason. Firstly a defect in the notice, if according to the assessee would result in a jurisdictional error, is not merely a pure question of law, but a mixed question of fact and law. If such is the position, the vigilant assessee, more particularly, a listed Company like the assessee before us should point out the factual issue at the very first instance. If that was not done by the assessee, then it goes to show that the assessee was not prejudiced by the use of the expression 'or."*

14. In the instant case, the assessee had raised the contention of the defective notice before the CIT(A) and the same was adjudicated in favour of assessee. Therefore, the case of Gangotri

Textiles Ltd vs DCIT *(supra)* is distinguishable from the present case.

15. In the light of the aforesaid reasoning and relying on the judgment of Hon'ble Jurisdictional High Court in the case of PCIT v. R. Elangovan *(supra),* we hold that penalty notice dated 31.12.2016 u/s. 274 r.w.s. 271AAB of the Act issued without mentioning specific limb under which the AO would proceed against the assessee is a defective notice. Therefore, the consequent penalty order imposing penalty u/s.271AAB of the Act amounting to Rs.69,71,783/- is unsustainable. Hence, we see no reason to interfere with the order of CIT(A) and we, reject the grounds raised by the Department. It is ordered accordingly.

16. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 20th February, 2026 at Chennai.

Sd/-	*Sd/-*
(इंटूरी रामा राव)	(जॉर्ज जॉर्ज के)
(INTURI RAMA RAO)	**(GEORGE GEORGE K)**
लेखा सदस्य/ACCOUNTANT MEMBER	उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,
दिनांक/Dated, the 20th February, 2026

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Coimbatore
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.