

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री ललित कुमार, न्यायिक सदस्य एवं श्री कृणवन्त सहाय, लेखा सदस्य
BEFORE: SHRI. LALIET KUMAR, JM & SHRI. KRINWANT SAHAY, AM

आयकर अपील सं. / ITA No. 987/Chd/ 2025

निर्धारण वर्ष / Assessment Year : 2014-15

Health Biotech Limited SCO-162-164, JAL Building, Sector 34, Chandigarh-160036	बनाम	The DCIT Circle 1(1)
स्थायी लेखा सं. / PAN NO: AABCH1876K		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : Shri Parikshit Aggarwal, C.A (Virtual)

राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, Addl. CIT, Sr. DR

सुनवाई की तारीख/Date of Hearing : 21/01/2026

उदघोषणा की तारीख/Date of Pronouncement : 24/02/2026

आदेश/Order

PER LALIET KUMAR, J.M:

The present appeal filed by the assessee is directed against the order dated 07.07.2025 passed by the Ld. CIT(A), NFAC, Delhi, confirming the penalty of Rs.69,68,581/- levied by the Assessing Officer under section 271(1)(c) of the Income-tax Act, 1961 for the Assessment Year 2014-15.

2. In the present appeal Assessee has raised the following grounds:

1. That on the facts, circumstances and legal position of the case, Worthy CIT(A), NFAC in Appeal No. CIT (A), Chandigarh- 1/10844/2019-20 has erred in passing order dtd. 07.07.2025 in contravention of provisions of S. 250 of Income Tax Act, 1961 (hereinafter referred to as "Act").

2. That on facts, circumstances and legal position of the case, Worthy CIT(A) has erred in confirming the action of Ld. AO of imposition of penalty u/s 271(1)(c) of Rs. 69,68,581/- on alleged furnishing of inaccurate particulars of income added by Ld. AO of Rs.2,25,52,043/-.

3. That on facts, circumstances and legal position of the case, Worthy CIT(A) has erred in confirming the action of Ld. AO of imposition of penalty u/s 271(1)(c) of Rs. 69,68,581/- on account of disallowance u/s 40(a)(ia) of Rs. 2,23,34,758/-.

4. That on facts, circumstances and legal position of the case, Worthy CIT(A) has erred in confirming the action of Ld. AO of imposition of penalty u/s 271(1)(c) even when the initiation and imposition of that penalty was totally vague.

5. That on facts, circumstances and legal position of the case, the impugned penalty order passed by the Ld. AO u/s 271(1)(c) and then confirmed by Worthy CIT(A) deserves to be quashed since the same have been passed without affording reasonable opportunity of being heard to the appellant.

6. That the appellant craves for any addition, deletion or amendment in the grounds of appeal on or before the disposal of the same.

3. Briefly, the facts of the case are that the assessee company filed its return of income declaring loss. The assessment was completed under section 143(3) of the Act, wherein additions were made, inter alia, on account of disallowance of expenditure under section 40(a)(ia) due to non-deposit of tax deducted at source within the prescribed time and disallowance of excess depreciation claimed on assets funded by capital subsidy. Consequent to these additions, the Assessing Officer initiated penalty proceedings under section 271(1)(c) and levied penalty holding that the assessee had furnished inaccurate particulars of income.

4. Against the order of the AO the assessee went in appeal before the Ld. CIT(A).

5. The Ld. CIT(A), after considering the submissions of the assessee, confirmed the levy of penalty by holding that the assessee had failed to furnish true and correct particulars of income and that the claims made were not bona fide. The Ld. CIT(A) further observed that the Assessing Officer had clearly levied penalty for furnishing inaccurate particulars of income and that the penalty proceedings were validly initiated.

6. Against the order of the Ld. CIT(A) the assessee preferred an appeal before the Tribunal.

7. During the course of hearing, the Ld. AR of the assessee reiterated the submissions made before the lower authorities. The principal contention

raised was that the show-cause notice issued under section 274 read with section 271(1)(c) was invalid as the Assessing Officer had not specifically mentioned the limb under which the penalty was proposed to be imposed, namely concealment of income or furnishing inaccurate particulars of income. It was argued that the notice was vague and mechanical and, therefore, the entire penalty proceedings were vitiated. Reliance was placed on the decisions of the Hon'ble Karnataka High Court in *Manjunatha Cotton & Ginning Factory*, the Hon'ble Bombay High Court in *Sheikh Mohammad*, and the judgment of the Hon'ble Supreme Court in *SSA's Emerald Meadows*. On merits, it was contended that the disallowance under section 40(a)(ia) was due to delayed deposit of TDS caused by financial constraints and that excess depreciation was claimed under a bona fide belief, and hence penalty was not leviable.

8. The Ld. DR, on the other hand, strongly supported the orders of the Assessing Officer and the Ld. CIT(A). It was submitted that the assessee is a corporate entity assisted by professionals and was fully aware of the statutory provisions. The claims made by the assessee were clearly inadmissible under law and yet were claimed in the return of income. It was further submitted that the assessment order as well as the penalty order clearly record satisfaction that the assessee had furnished inaccurate particulars of income. Therefore, merely because the notice was issued in a standard format, the penalty proceedings cannot be held to be invalid, particularly when no prejudice was caused to the assessee.

9. We have heard the rival submissions and perused the material available on record. The first issue raised by the assessee relates to the validity of the show-cause notice issued under section 274 read with section 271(1)(c). On careful examination of the assessment order and the penalty order, we find that the Assessing Officer has recorded a clear and categorical satisfaction that the assessee had furnished inaccurate particulars of income in respect of the disallowance under section 40(a)(ia)

as well as excess depreciation claimed. The penalty order unequivocally states that the penalty has been levied for furnishing inaccurate particulars of income. Thus, the charge against the assessee is unambiguous and consistently maintained throughout the proceedings.

9.1 The decisions relied upon by the assessee in *Manjunatha Cotton & Ginning Factory* and *SSA's Emerald Meadows* are distinguishable on facts. In those cases, there was complete ambiguity regarding the charge and the Assessing Officer had failed to record satisfaction in the assessment order itself. In the present case, however, the satisfaction has been clearly recorded and the penalty has been levied under a specific limb of section 271(1)(c). The Hon'ble Bombay High Court in *Sheikh Mohammad* also does not come to the rescue of the assessee, as in the present case the assessee was fully aware of the charge and had effectively participated in the penalty proceedings without any demonstrated prejudice. Therefore, we find no merit in the assessee's legal grounds that the penalty proceedings are vitiated by an invalid notice. Therefore, the legal grounds raised by the assessee are dismissed.

9.2 The penalty in the present case has been levied on account of (i) disallowance under section 40(a)(ia) for delayed deposit of TDS and (ii) excess depreciation claimed on assets funded by capital subsidy. It is not in dispute that all particulars relating to the expenditure, TDS deduction and subsidy were duly disclosed in the books of account as well as in the return of income. The additions have arisen only because of legal disallowances under the provisions of the Act and not because any income was found to be concealed or any factual detail was found to be false.

9.3 An important factual aspect emerging from the record is that the assessee is an eligible industrial undertaking claiming deduction under section 80IC, and during the year under consideration, it was incurring substantial losses and was governed by the provisions of Minimum Alternate Tax (MAT). Even after the impugned additions were made, on account of

disallowances, the tax liability of the assessee remained the same. Thus, the additions did not result in any tax advantage or a reduction in the tax payable. The Revenue has also not disputed that the assessee continued to be taxed under MAT at the same amount.

9.4 Penalty under section 271(1)(c) is a civil liability, but it is nevertheless attracted only where the conduct of the assessee shows an attempt to conceal income or furnish inaccurate particulars so as to evade tax. In our considered view, where the returned income and assessed income ultimately lead to identical tax liability, the element of tax evasion, which is the foundation and reason for imposing the penalty, is conspicuously missing. In the present case, the disallowance merely altered the computation under normal provisions but did not create any additional tax burden under MAT regime.

9.5 The disallowance under section 40(a)(ia) arose because of the delayed deposit of TDS owing to financial constraints. The expenditure itself has not been doubted, and the payments are genuine. Similarly, the depreciation claim was made on the basis of the accounting treatment of the subsidy and represents, at best, a legal claim not accepted by the department. These circumstances clearly demonstrate that the case is one of an incorrect claim and not of furnishing inaccurate particulars of income.

9.6 It is settled law that a penalty cannot be imposed merely because a claim made by the assessee is not accepted in assessment proceedings. The distinction between "incorrect claim" and "false claim" has to be maintained. In the present case, there is no finding that the particulars furnished were factually incorrect. All material facts were fully disclosed, and the additions were made on the interpretation of statutory provisions.

9.7 Further, when the assessee is a loss-making company taxable under MAT and no additional tax becomes payable even after the additions, the allegation of intention to evade tax loses significance. The conduct of the

assessee cannot be said to be contumacious or mala fide. The very basis for invoking section 271(1)(c), namely tax sought to be evaded, becomes academic in such a situation.

9.8 Considering the totality of facts, we hold that the impugned additions represent legal disallowances arising from statutory provisions and accounting interpretation and do not amount to concealment of income or furnishing of inaccurate particulars. Therefore, the penalty levied under section 271(1)(c) is not sustainable.

9.9 In view of the above discussion, we set aside the order of the Ld. CIT(A) and direct the Assessing Officer to delete the penalty of Rs. 69,68,581/-.

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

Order pronounced in the open Court on 24/02/2026

Sd/-

कृणवन्त सहाय
(KRINWANT SAHAY)
लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

ललित कुमार
(LALIET KUMAR)
न्यायिक सदस्य /JUDICIAL MEMBER

AG

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar