

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.745/Viz/2025
(निर्धारण वर्ष/ **Assessment Year: 2012-13**)

Tirumala Surya Kumari Srikakulam PAN : AEZPT7686L (अपीलार्थी/ Appellant)	Vs.	Income Tax Officer Ward-1 Srikakulam (प्रत्यर्थी/ Respondent)
--	-----	---

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate (through Hybrid hearing)
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	:	25.02.2026

ORDER

PER OMKARESHWAR CHIDARA, A.M :

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax(Appeals) ["Ld.CIT(A)"], National Faceless Appeal Centre ("NFAC"), Delhi in DIN & Order No.ITBA/NFAC/S/250/2025-26/1080780299(1) dated 16.09.2025, arising out of penalty order passed by the Ld.AO u/s 271(1)(c) of the

Income Tax Act, 1961 (“the Act”), dated 07.05.2024, pertaining to the assessment year 2012-13.

2. In the above cited case, Ld.AO levied a minimum penalty of 100% of tax sought to be evaded u/s 271(1)(c) of the Act. While completing the income tax assessment, the Ld.AO made addition and estimated net profit of 10% of total purchases and on other issues. Subsequent to the completion of the assessment, penalty was also levied on the above additions. Aggrieved by the penalty levied by the Ld.AO, an appeal was filed before the Ld.CIT(A). After going through the records and submission of the appellant, the Ld.CIT(A) found that the penalty order passed on the assessment order was set aside to the file of the AO by Hon’ble ITAT. Hence, penalty will not have legs to stand and hence, appeal filed by the appellant was treated as infructuous and dismissed.

3. This appeal was filed before ITAT by the appellant, stating that the notice issued by the Department was ambiguous as the specific limb for which penalty was proposed to be levied was not ticked in the said notice. It was also mentioned in the grounds of appeal that the penalty should have been struck down as the addition made by the Ld.AO is on estimation basis and there was no

concealment of income at all. During the hearing before the ITAT, the Ld.AR of the appellant filed a copy of notice issued u/s 271(1)(c) dated 25.03.2015 and demonstrated that the relevant limb imposing penalty was not ticked by the Ld.AO. In other words, the Ld.AO did not mention the specific reason for levying penalty, i.e. whether the assessee has concealed the income or filed inaccurate particulars of such income. Since there is ambiguity in the notice, the same should be treated as invalid, in view of the decision of Hon'ble jurisdictional High Court's decision in the case of PCIT Vs. Baisetty Revathi [2017] 398 ITR 88 (Andhra Pradesh). In this case, Hon'ble jurisdictional High Court has held that the Revenue must specify as to which one of the two limbs is sought to be pressed into service and cannot be permitted to club both, by interjecting or between the two. In similar circumstances, the Hon'ble High Court has deleted the penalty levied by the Ld.AO. Following the decision of Hon'ble jurisdictional High Court, the coordinate Bench of ITAT, Visakhapatnam has also deleted the penalty in similar circumstances in the case of Visakhapatnam Industrial Water Supply Company Limited V.s DCIT in ITA No.657/Viz/2025 dated 19.12.2025. In view of the same, the Ld.AR of the appellant requested the Bench to delete penalty levied by the Ld.AO.

4. The Ld.DR has argued that penalty order is very clear and it mentions that the penalty is levied for the sake of concealment of income and hence the argument of Ld.AR is incorrect. Therefore, the penalty order passed by the Ld.AO should be upheld.

5. After hearing both sides and perusing the order of Ld.CIT(A) and grounds of appeal, it is observed that the impugned assessment order itself was set aside to the file of the AO by the ITAT vide ITA No.215/Viz/2023 dated 08.08.2024. Hence, the addition itself will not survive and consequently, penalty levied on the assessment also will not survive. In view of the same, penalty levied by the Ld.AO is deleted and the appeal of the assessee is allowed.

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

Order pronounced in the Open Court on 25th
February, 2026.

<p>Sd/- (विजय पाल राव) (VIJAY PAL RAO) उपाध्यक्ष /VICE PRESIDENT</p>	<p>Sd/- (ओम्कारेश्वर चिदारा) (OMKARESHWAR CHIDARA) लेखा सदस्य/ACCOUNTANT MEMBER</p>
---	--

Visakhapatnam
dated 25.02.2026.
L.Rama/sps

ITA No.745/Viz/2025
Tirumala Surya Kumari

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

1.	निर्धारिती/The Assessee	:	Smt.Tirumala Surya Kumari, Plot No.19, Rajeev Nagar Colony, Srikakulam
2.	राजस्व/ Revenue	The :	The Income Tax Officer, Ward-1, Income Tax Office, Aayakar Bhavan, Palakonda Road, Srikakulam
3.	The Principal Commissioner of Income Tax, Visakhapatnam		
4.	विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापट्टनम / The DR, ITAT, Visakhapatnam		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam