

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.2196/Kol/2025
Assessment Year: 2012-13**

**Winwood Marketing Pvt. Ltd.....Appellant
C/o Agarwal Vishwanath & Associates,
133/1/1A, SN Banerjee Road,
Pushkal Bhawan 3rd Floor, Kol – 700013.
[PAN: AABCW3528M]**

vs.

ITO, Ward-6(2), Kolkata.....Respondent

Appearances by:

Shri Subhankar Ghosh, Adv., appeared on behalf of the appellant.

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

Date of concluding the hearing : January 19, 2026

Date of pronouncing the order : February 05, 2026

ORDER

Per Pradip Kumar Choubey, Judicial Member:

This appeal filed by the assessee is directed against the order dated 09.09.2025 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 2012-13.

2. Facts in brief are that the assessee had filed his return of income for the A.Y. 2012-13 declaring a total income Nil. The case of the assessee was selected for scrutiny through CASS with the reason 'large share premium received'. Accordingly, notice u/s 143(2) of the Act was issued. The assessment order u/s. 143(3) of the Act was passed determining total income of Rs.4,79,44,500/- (share capital of Rs.8,30,000/- + premium of Rs.4,71,14,500/-) and the Assessing Officer also initiated penalty proceedings u/s. 271(1)(c) of the 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.2 raised before us contending that the notice issued u/s 274 r.w.s. 271(1)(c) of the Act is vague as the said notice is without mentioning any specific charge and therefore, null and void ab initio and consequently, 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

Income-tax Office : WARD-6(4)/KOL

Date : 27.03.2015

To
M/s. Winwood Marketing Pvt. Ltd
9/12, Lal Bazar Street, 3rd Floor,
Kolkata - 700001

PAN - AABCW3528M

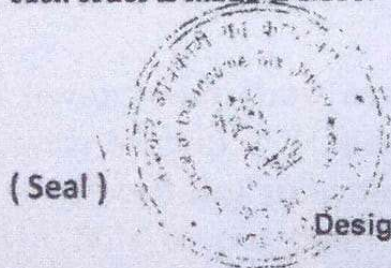
Whereas in the course of proceedings before me for the A/Y 2012-13 it appears to me that you :-

* have without reasonable cause failed to furnish me return of income which you were required to furnish by a notice given u/s.22(1)/22(2)/34 of Indian Income Tax Act, 1922 of which you were required to furnish u/s.139(1) or by a notice given u/s.139(2)/148 of the Income Tax Act, 1961, No. _____, 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 u/s.22(4)/23(2) of the Indian Income Tax Act, 1922 or u/s.142(1)/143(2) of the Income Tax 1961.

> have concealed the particulars of your income or furnished inaccurate particulars of such income.

You are hereby requested to appear before me at P-7 Chowringhee Square, Aayakar Bhavan, 6th Floor, Kolkata -700069 at 04.30PM on 17/06 /2015 and show cause why an order imposing a penalty on you should not be made u/s.271(1)(c) of the Income Tax Act, 1961. If you do not wish to avail yourself of this opportunity or being heard in person or through authorized representative, you may show cause in writing on or before the said date which will be considered before any such order is made u/s.271.



(Seal)

Name:
Designation:

ASSESSING OFFICER

(MRITYUNJAY GHOSH)
INCOME TAX OFFICER, WARD-6(4)/KOL

मृगुंजय घोष
Mr. Mrityunjay Ghosh
Income Tax Officer, Ward-6(4), Kolkata.

6.1 We find that in the above notice u/s 274 r.w.s. 271 of the Act dated 27.03.2015, the Assessing Officer has not either struck off the irrelevant

limb or specified the limb under which the penalty was proposed to be levied. In other words, the Assessing Officer has stated both the limbs in the said notices. Therefore, we find merit in the contention of the assessee that the notice has been issued in standard format and 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."

6.2 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 27.03.2015 of the Act is invalid and accordingly, the consequent penalty order framed is also invalid and is hereby quashed.

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

Kolkata, the 5th February, 2026.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Dated: 05.02.2026.

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