

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

श्री एबी टी वर्की, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.:2630/Chny/2025

निर्धारण वर्ष / Assessment Year: 2014-15

Achala Punja, 2A, Seasons Apartment, 19, Ganapathy Colony, Genotaph Road, Teynampet, Chennai – 600 018.	vs.	DCIT, Non-Corporate Circle -3(1), Chennai.
[PAN: AAJPS-3345-K] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. R. M. Narayanan, Advocate

प्रत्यर्थी की ओर से/Respondent by : Ms. Gouthami Manivasagam, JCIT

सुनवाई की तारीख/Date of Hearing : 11.12.2025

घोषणा की तारीख/Date of Pronouncement : 09.03.2026

आदेश / O R D E R

PER S.R.RAGHUNATHA, AM:

This appeal has been preferred by the Assessee against the order dated 18.07.2025 passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the "Id.CIT(A)"], which arises out of the penalty order dated 16.09.2022 passed u/s.271(1)(c) of the Income Tax Act, 1961 [hereinafter referred to as "the Act"] passed by the Income Tax Officer, Non Corporate Ward 3(3), Chennai [hereinafter referred to as the "AO"] for the Assessment Year 2014-15.

2. The assessee has raised the following grounds of appeal:

1. *The AO erred in levying and the CIT(A) erred in confirming the penalty of Rs.61,31,504/- u/s 271(1)(c) which solely arise due to the AO restricting exemption u/s 54 to a sum of Rs.3,18,67,700/-, when the total payment to the developers towards the purchase of the new flat was Rs 6,16,32,285/-.*
2. *Both the AO as well as the First Appellate Authority failed to appreciate the fact that the claim of the appellant u/s 54 was based on actual payment made by her to the builder, while its disallowance was based merely on one document, ignoring all other factual aspects. The appellant has at all material times fully disclosed all relevant information pertaining to her claim u/s 54.*
3. *The appellant submits that there has been no concealment of any income or furnishing of inaccurate particulars warranting penalty u/s 271(1)(c). Mere making of a claim, even if it is found not sustainable in law, by itself, will not amount to furnishing inaccurate particulars of income – CIT v. Reliance Petroproducts Pvt. Ltd (322 ITR 158, SC).*
4. *The appellant also seeks to rely on the following decisions that squarely support her case that mere disallowance of a claim genuinely made does not attract penalty u/s 271(1)(c).*
 - *CIT v. Harshavardhan Chemicals & Minerals Ltd. (259 ITR 212, Rajasthan HC)*
 - *CIT v. SSP (India) Ltd (328 ITR 643, P&H HC)*
 - *Shri R. Vasudevan v. The Dy. Commissioner of Income Tax, Central Circle-1(1), Chennai, Chennai ITAT, ITA No.1730/Chny/2019/Assessment Year: 2012-13.*
5. *For these and such other grounds as may be adduced at the time of hearing, the appellant prays that the penalty of Rs 61,31,504/- levied u/s 271(1)(c) be deleted and justice rendered.*

3. The brief facts of the case are that the assessee, an individual, filed her return of income for the A.Y.2014-15 u/s.139(1) of the Act on 30.07.2014, declaring a total income of Rs.49,02,590/-. In the said return, the assessee claimed exemption u/s.54 of the Act amounting to Rs.6,16,32,285/-. Subsequently, the assessment was reopened by issuance of notice u/s.148 of the Act on 31.03.2021. In response thereto, the assessee filed her return of income on 05.05.2021 declaring the same total income as was declared in the original return. Thereafter, the AO issued notice u/s.143(2) of the Act on 06.09.2021 followed by notice u/s.142(1) of the Act on 01.12.2021.

4. During the assessment year under consideration, the assessee had reported Long-Term Capital Gain of Rs.7,05,94,050/- arising from sale of an immovable property and claimed exemption u/s.54 of the Act to the extent of Rs.6,16,32,285/- in respect of payments made to the builder, M/s.Total Environment Building Systems Pvt. Ltd., towards cost of acquisition and construction of a residential flat.

5. During the course of assessment proceedings, the AO called upon the assessee to furnish documentary evidence in support of the claim of exemption of Rs.6,16,32,285/- u/s.54 of the Act. In response, the assessee furnished copies of the Sale Deed, relevant Bank Statements, and a Certificate issued by the Builder confirming the purchase of Flat No. D5092. On examination of the Sale Deed No. 6360/13-14 dated 14.03.2014, the AO observed that the total consideration mentioned therein for the purchase of the property was Rs.3,01,77,700/-, on which Tax Deducted at Source u/s.194-IA of the Act amounting to Rs.3,01,777/- had been duly deposited. The AO further noted that the assessee had incurred registration charges and stamp duty aggregating to Rs.16,90,000/-. Consequently, the AO held that the assessee was eligible for exemption u/s.54 of the Act only to the extent of Rs.3,18,67,700/- (i.e., Rs.3,01,77,700/- plus Rs.16,90,000/-) and accordingly issued a show-cause notice to the assessee proposing to disallow the balance claim of Rs.2,97,64,585/-.

6. In response, the assessee submitted that she had made aggregate payments of Rs.6,16,32,285/- to the Builder towards cost of acquisition and construction of the residential unit and therefore, the entire amount ought to be considered for exemption u/s.54 of the Act. However, the AO was not satisfied with the explanation furnished by the assessee on the ground that no documentary evidence was submitted in support of such additional payments. The AO, therefore, proceeded to disallow the claim of exemption to the extent of Rs.2,97,64,585/- and completed the assessment u/s.147 of the Act on

28.03.2022 determining the total income of the assessee at Rs.3,46,67,175/-, after denying the aforesaid portion of exemption claimed u/s.54 of the Act.

7. In light of the disallowance of the assessee's claim for exemption amounting to Rs.2,97,64,585/- u/s.54 of the Act, penalty proceedings u/s.271(1)(c) of the Act were initiated for concealment of particulars of income. Consequently, a show cause notice dated 28.03.2022 was issued to the assessee. The AO observed that the assessee failed to respond to any of the notices issued during the course of the penalty proceedings. In the absence of any response from the assessee, the AO proceeded to pass the impugned penalty order dated 16.09.2022, levying a penalty of Rs.61,31,504/- u/s.271(1)(c) of the Act for concealment of particulars of income.

8. Aggrieved of the penalty order, assessee carried the matter in appeal before the Ld.CIT(A), who vide the impugned appellate order dated 18.07.2025 confirmed the penalty of Rs.61,31,504/- levied by the AO u/s.271(1)(c) of the Act.

9. Aggrieved further, assessee is in appeal before us.

10. The Ld.AR vehemently argued for the deletion of the penalty as the quantum appeal of the assessee before this Tribunal has been decided in favour of the assessee by allowing the deduction claimed u/s.54 of the Act, except to the tune of Rs.14,99,190/- for want of the supporting vouchers. Further the Ld.AR relied on the grounds and other judicial precedents relied in the grounds of appeal filed.

11. Per contra, the Ld.DR relied upon the orders of the authorities below. Further the Ld.DR submitted that the penalty levied u/s.271(1)(c) is fully justified, as the Appellant has furnished inaccurate particulars of her income by making an unsubstantiated and inflated claim for exemption u/s.54 of the Act. In light of the above, the Ld.DR prayed for confirming the penalty.

12. We have heard the rival submissions and perused the material available on record. The penalty in the present case was levied by the AO u/s.271(1)(c) of the Act on the premise that the assessee had concealed particulars of income to the extent of the disallowance of exemption claimed u/s.54 of the Act amounting to Rs.2,97,64,585/-. However, it is an undisputed fact that in the quantum proceedings arising out of the very same assessment order, this Tribunal in ITA No.1483/Chny/2025 dated 09.10.2025 has examined the issue in detail and has allowed the assessee's claim of exemption u/s.54 of the Act to the extent of Rs.6,01,33,095/-, thereby sustaining the disallowance only to the limited extent of Rs.14,99,190/-. The relevant observations of this Tribunal are as under:

"16. We have carefully considered the rival submissions, perused the material available on record, the paper book filed by the assessee, and the orders of the authorities below. The assessee has claimed exemption u/s.54 of the Act amounting to Rs.6,16,32,285/-, whereas the AO restricted the said exemption to Rs.3,18,67,700/-, thereby disallowing a sum of Rs. 2,97,64,585/-. The only issue that, therefore, arises for our adjudication is the quantum of exemption allowable to the assessee u/s.54 of the Act.

17. From the material placed before us, it is evident that the assessee, on 04.03.2014, entered into an Agreement for Sale with M/s. Total Environment Building Systems Pvt. Ltd. (hereinafter referred to as "the Builder") for purchase of a residential apartment admeasuring 5924 sq. ft. in the project titled "Windmills of Your Mind" for a total consideration of Rs.5,49,99,500/-. Out of the said amount, a sum of Rs.3,60,37,500/- was stated to be attributable to the undivided share of land and the basic cost of the unit, while the balance amount of Rs.1,50,00,000/- was towards the completion of the apartment unit by way of finishing works.

18. Subsequently, on 14.03.2014, a registered sale deed was executed between the assessee and the Builder for a total sale consideration of Rs.3,01,77,700/-, and the assessee paid stamp duty of Rs.16,90,000/- thereon. Thus, the aggregate investment as reflected in the registered sale deed amounted to Rs.3,18,67,700/-, which amount was accepted by the AO as the basis for allowing exemption u/s.54 of the Act.

19. Upon perusal of the Builder's confirmation letter dated 15.05.2014, we find that it is clearly stated that the consideration of Rs.3,01,77,700/- recorded in the registered sale deed represents only the cost towards the undivided share of land and the basic "shell" of the unit, which comprised merely the structural framework consisting of supporting pillars and slabs without internal walls, flooring, electricals, plumbing, or other habitable features. The total consideration of Rs. 5,49,99,500/-, as per the original

agreement, was intended to cover the entire cost of the apartment in a habitable and usable condition, including civil finishing, carpentry, plumbing, electrical, and other allied works necessary to make the premises a complete residential house.

20. We, therefore, find merit in the contention of the assessee that the consideration reflected in the registered sale deed does not represent the entire investment made in acquiring the new residential house as contemplated u/s.54 of the Act. The exemption u/s.54 of the Act cannot be restricted only to the cost of the undivided share of land and the bare structure, when the assessee has demonstrably incurred additional expenditure towards rendering the apartment habitable.

21. Upon perusal of the bank statements and receipts placed on record, we find that the assessee had made total payments aggregating to Rs.5,81,40,485/- to the Builder upto 14.03.2014. In addition, the assessee had incurred stamp duty of Rs.16,90,000/- and registration charges of Rs.3,02,610/-. The cumulative investment, therefore, aggregates (Rs.5,81,40,485 + Rs. 16,90,000 + Rs. 3,02,610).

22. Considering the above facts and the settled position of law that for the purposes of section 54 of the Act, the cost of acquisition of the new residential house includes not only the purchase price of the property but also all incidental and necessary expenses incurred to make the property habitable, we are of the considered opinion that the assessee is entitled to claim exemption u/s.54 of the Act in respect of the entire investment of Rs.6,01,33,095/-.

23. Accordingly, we direct the AO to allow exemption u/s.54 of the Act to the extent of Rs.6,01,33,095/- as against the restricted amount of Rs.3,18,67,700/- allowed in the assessment order. Thus, the grounds of appeal raised by the assessee are partly allowed.”

13. Thus, the very foundation on which the AO proceeded to levy penalty no longer survives to a substantial extent. It is well settled that penalty proceedings are distinct from assessment proceedings; however, when the addition or disallowance forming the basis for levy of penalty is substantially deleted in quantum proceedings, the penalty levied with reference to such addition cannot be sustained. In the present case, the assessee had disclosed the entire transaction relating to the sale of property and the investment made in the new residential unit in the return of income and had claimed exemption u/s.54 of the Act on the basis of payments made to the builder. The issue essentially related to the quantification of eligible investment for the purpose of section 54 of the Act, which has been largely accepted by the Tribunal in the quantum appeal after examining the supporting evidence such as bank statements, builder's

confirmation and other documents. Further, relating to confirmation of disallowance of smaller sum of Rs.14,99,190/-, the same cannot be construed as concealment of particulars of income as the assessee had filed the relevant details. Therefore, the disallowance made by the AO arose out of a difference in appreciation of the evidence and interpretation of the provisions of section 54 of the Act, and cannot be construed as concealment of income or furnishing of inaccurate particulars of income within the meaning of section 271(1)(c) of the Act. In view of the fact that the substantial addition forming the basis of penalty has already been deleted by this Tribunal and considering that the claim of the assessee was bona fide and supported by material placed on record, we are of the considered view that the penalty levied by the AO and confirmed by the Ld.CIT(A) is unsustainable. Accordingly, we direct the AO to delete the penalty of Rs.61,31,504/- levied u/s.271(1)(c) of the Act. Thus, the grounds raised by the assessee are allowed.

14. In the result, the appeal of the assessee stands allowed.

Order pronounced in the open court on 09th March, 2026 at Chennai.

Sd/-
(एबी टी वर्की)
(ABY T VARKEY)
न्यायिक सदस्य/Judicial Member

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 09th March, 2026

SP

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem

4. विभागीय प्रतिनिधि/DR

5. गार्ड फाईल/GF