

IN THE INCOME TAX APPELLATE TRIBUNAL, RANCHI BENCH, RANCHI

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER

ITA No. 206/Ran/2024

(Assessment Year-2009-10)

D.C.I.T., Circle-1, Ranchi.	Vs.	Central Coalfield Ltd., 4th Floor, Central revenue Building Annexee, 5A, Main Road, Ranchi-834001 (Jharkhand) PAN No. AAACC 7476 R
Appellant/ Revenue		Respondent/ Assessee

ITA No. 209/Ran/2024

(Assessment Year-2009-10)

M/s Central Coalfields Ltd., Darbhanga House, Kutcheri Road, Ranchi-834001 (Jharkhand) PAN No. AAACC 7476 R	Vs.	D.C.I.T., Circle-1, Ranchi.
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	Shri M.K. Chowdhary & Shri Devesh Poddar, A.Rs.
Department represented by	Shri Rajib Jain, CIT-DR
Date of hearing	05/01/2026
Date of pronouncement	20/02/2026

ORDER

PER: BENCH

1. The appeal filed by the revenue and the cross appeal filed by the assessee are directed against the order of the National Faceless Appeal Centre (NFAC), Delhi/learned Commissioner of Income Tax (Appeals), [in short, the Id. CIT(A)] dated 15/03/2024 for the Assessment Year (AY) 2009-10. The Revenue in its appeal has raised following grounds of appeal:

"1. The Ld. CIT(A) had erred in restricting the penalty to its minimum, while the AO was fully justified in imposing penalty @ 150% of tax sought to be evaded.

The Assessee has given inaccurate particulars of allowable expenses and the same has been confirmed by the Ld.CIT(A) in his order relating to the Assessment order.

2. *The Ld. CIT(A) failed to appreciate that the assessee had furnished inaccurate particulars of Income and to that extent has concealed its income. The Ld.CIT(A) decreased the quantum of penalty to its minimum i.e. 100% of the tax sought to be evaded.*
3. *The Ld. CIT(A) had erred in deleting the penalty on disallowance u/s 40(a)(ia) in respect of IICM Charges. The expenses were treated as Capital expenses by the Assessing Officer. The CIT(A) NFAC too has dismissed the Assessee's appeal on the same ground in respect of IICM expenses in A.Y. 2008-09. The Assessee had claimed the same expenses again and again after being disallowed by the Assessing Officer, establishing mens rea in assessee's approach.*
4. *The CIT(A) failed to appreciate that the assessee is aided by a battery of CAS and advocates, still it deliberately filed inaccurate particulars of income.*
5. *Other grounds, if any, will be raised at the time of hearing."*

The assessee, on the other hand, in its appeal, has raised following grounds of appeal:

- "1. *For that the impugned order passed against order u/s 271(1)(c) is unjustified, uncalled for on facts and in law and is liable to be quashed.*
2. *For that Ld. AO and the Ld. CIT(A) were not justified for not keeping the penalty proceedings in abeyance till disposal of the quantum appeal by Hon'ble ITAT. Moreover, Ld. CIT(A) has further erred in not appreciating judiciously, the facts of the disallowance of expenses from the assessment order and the written submissions filed by the appellant.*
3. *For that Ld. CIT(A) have erred in not appreciating judiciously the decisions of Hon'ble Apex Court, High Courts and the jurisdictional ITAT, which were binding upon him, which had held that that the notice issued under section 274 read with section 271 was bad in law, as it did not specify under which limb of section 271(1)(c) penalty proceedings had been initiated, i.e., the notice failed to specify whether the penalty was imposed for concealment of income, furnishing inaccurate particulars, or both. As such the entire penalty proceeding is void-ab-initio and liable to be quashed.*
4. *For that Ld. AO and the Ld. CIT(A) have erred on facts and in law, in holding that the appellant has furnished inaccurate particulars of income without appreciating the fact that in the assessment order the "Inaccurate particulars" has not been mentioned at single place. Moreover, it is a settled position of law, settled by Hon'ble Apex Court in the case of CIT vs. Reliance Petroproducts (P) Ltd. (2010) 322 ITR 158 (SC) and other catena of Judgments that mere disallowance of claim for expenditure by itself would not*

tantamount to furnishing inaccurate particulars of income and all facts relating to same had been disclosed by assessee, penalty could not have been imposed. As such the penalty imposed only on additions/ disallowance of expenses on difference of opinion is unjustified, arbitrary and illegal.

5. *For that the penalty u/s 271(1)(c) as imposed by AO & sustained by CIT (A) on disallowances of prior period expenses and land and crop compensation s under, on account of furnishing of inaccurate particulars. Besides, penalty has also been imposed on disallowance of Provision of Executive pay Revision which was not disputed by the appellant even before Ld. CIT(A) since the return of A.Y. 2010-11 was revised and the same was allowed in assessment of immediately subsequent A.Y. 2010-11 on actual payment basis.*

However, in the penalty order passed, there is no allegation of a single word, as to which particulars of such expenses were inaccurate. The appellant filed its detailed explanation with all facts which were not found incorrect or false. The disallowance has been sustained in quantum appeal by Ld. CIT(Appeals) only on difference of opinion. The issue involved in respect of the disallowance of expenses is as under :-

Sl.	Head	Amount	Issue involved
1	Prior period expenses	91,73,000/-	Whether ascertained & crystalized during the year.
2	Land & Crop Compensation	26,65,86,000/-	Whether of enduring nature i.e. Capital or of revenue nature.
3.	Provisions for Executive Salary revision	125,10,67,000/-	Whether ascertained during the year. However, allowed during A.Y. 2010-11 (para "h" above)
<i>Total Rs. 152,68,26,000/-</i>			

As such the penalty imposed for inaccurate particulars is unjustified, arbitrary and without any basis, without appreciating the facts and the law which is no more res-integra, as aforesaid.

6. *For that other grounds, if any will be argued / taken up at the time of hearing.*

2. The appeal of the assessee, bearing ITA No. 209/Ran/2024 for the A.Y. 2009-10, is being considered first. The facts of the present case, in brief, are that the appellant company is a Government of India Enterprise and one of the five subsidiaries of Coal India Ltd. The assessment under Section 143(3) of the Income Tax Act, 1961 (in short, the Act) was passed by the Assessing Officer and following additions/disallowances were made:

Sl. No.	Head of addition/disallowance	Amount
(i)	Disallowance u/s 14A	₹ 1,64,80,500/-
(ii)	Prior period expenses	₹ 91,73,000/-
(iii)	Land & Crop Compensation	₹ 26,65,86,000/-
(iv)	Sports grant and grants of school	₹ 6,74,95,000/-
(v)	Community development and environmental expenses	₹ 10,22,13,000/-
(vi)	Mines development expenses	₹ 13,53,43,000/-
(vii)	CMPDIL Expenses	₹ 19,13,85,000/-
(viii)	IICM charges	₹ 2,16,22,000/-
(ix)	Provisions for Executive Salary revision	₹ 1,25,10,67,000/-
	Total Additions/Disallowances	₹ 2,06,13,64,500/-

The penalty proceedings under Section 271(1)(c) of the Act were separately initiated with the issue of notice under Section 274 read with section 271(1)(c) of the Act and finally, the Assessing Officer vide the impugned penalty order imposed a penalty of ₹ 69,68,01,600/- @ 150% of the tax sought to be evaded under Section 271(1)(c) of the Act dated 30/11/2017 on the ground that "the assessee company has furnished inaccurate particulars of income and to that extent it has concealed its income."

3. Aggrieved by the said penalty order, the assessee company filed appeal before the Id. CIT(A), who vide its impugned order partly allowed the appeal by reducing the penalty from 150% to 100% of the tax sought to be evaded.
4. Aggrieved by the order of Id. CIT(A), both i.e. the revenue and the assessee have filed their respective appeals before this Tribunal.
5. During the course of hearing, the Id. AR of the assessee has filed written submission as under:

"Written Synopsis: -

- 1. That ITA 206/Ran/2024 is the appeal filed by the revenue and the ITA 209/Ran/2024 is the appeal filed by the assessee both against the common order of CIT(A) NFAC dated 15/03/2024 in penalty imposed U/s 271(1)(c).*
- 2. That for the year under consideration, assessment U/s 143(3) was framed on 16/12/2011 wherein certain additions were made and subsequent to which penalty proceedings U/s 271(1)(c) was initiated vide notice dated 16/12/2011 copy of which is attached herewith.*
- 3. That the AO passed the penalty order U/s 271(1)(c) on 30/11/2017 imposing a penalty of Rs. 69,68,01,600/- being 150% of the total tax sought to be evaded. Being aggrieved with the penalty order, an appeal was filed before CIT(A) who vide the impugned order dated 15/03/2024, partly allowed the appeal filed by the assessee. The CIT(A) NFAC though dismissed the legal ground challenging the validity of the notice issued U/s 274 r.w.s. 271(1)(c), partly allowed the appeal of the assessee by restricting the penalty at 100% as against 150% imposed by AO.*
- 4. That the revenue is in appeal against the partial relief allowed by CIT(A) NFAC and the assessee is in appeal challenging the validity of the notice issued U/s 274 r.w.s 271(1)(c) for initiation of penalty proceedings and the penalty imposed thereby.*
- 5. That as stated above, the copy of the notice issued U/s 274 r.w.s 271(1)(c) dated 16/12/2011 and final notice dated 10/11/2017 is attached herewith from which it can be seen that the specific charge for levy of penalty was not rightly marked. Neither the show cause notice nor the order of assessment specify as to whether the penalty proceedings is being initiated for concealment of income or for furnishing inaccurate particulars of income.*
- 6. That as such, it is stated that since the very initiation of penalty proceedings was itself ab-intio void, the penalty imposed thereby is fit to be set aside/deleted.*
- 7. That even on merits, we would like to state that the issues involved on which the additions were made have either been deleted by the Hon'ble ITAT or set aside back to the file of the AO by the order of this tribunal*

dated 05/01/2026 in ITA No. 167 & 175/Ran/2017 and as such, the impugned penalty imposed upon the assessee has no legs to stand.

8. *That we rely upon the decision of Hon'ble Karnataka High Court in the case of CIT Vs Manjunatha Cotton & Ginning Factory 359 ITR 565 and the recent decision of Hon'ble Delhi High Court in PR. Commissioner of Income-tax Central -1 vs. Chetan Gupta [2025] 181 taxmann.com 946 (Delhi)[15-12-2025] to submit that the notice issued U/s 274 r.w.s 271(1)(c) was an invalid notice since the specific fault for which the penalty proceedings was initiated was not rightly marked and as such, the penalty imposed on basis of such notice is fit to be deleted.*
9. *That further we would also like to state that Hon'ble Apex Court in multiple cases have dismissed the SLP filed by the revenue department on this issue and upheld the decisions of the high court quashing the identical penalty notice. The cases referred to are: -*

*Commissioner of Income-tax vs. SSA'S Emerald Meadows [2016] 73 taxmann.com 248 (SC)/[2016] 242 Taxman 180 (SC)[05-08-2016]
Commissioner of Income-tax (LTU) vs. State Bank of India [2024] 169 taxmann.com 305 (SC)/[2025] 302 Taxman 365 (SC)[12-11-2024]*

Principal Commissioner of Income-tax vs. Unitech Reliable Projects (P.) Ltd. (2024) 166 taxmann.com 135 (SC)/[2024] 300 Taxman 585 (SC)/[2024] 469 ITR 394 (SC)[14-08-2024]

10. *That lastly, the coordinated bench of this tribunal on the identical facts in the case of M/s Bharat Coking Coal Ltd Vs ACIT order dated 11/06/2025 in ITA No. 121-128/Ran/2018 has relied upon the above quoted decisions while quashing the defective notice and deleting the penalty imposed thereby. A copy of the said order is also attached herewith.*

As such, we state that the penalty proceedings initiated in case of the assessee was ab initio void and the penalty imposed thereby is fit to be deleted.

We shall be obliged for your kind consideration and necessary orders on the above."

6. During the course of hearing, it was argued by the Ld. Counsel for the assessee that from the copy of the notice issued u/s 274 r.w.s 271(1)(c) dated 10/11/2017, it can be seen that the specific charge for levy of penalty was not

rightly marked. Neither the show cause notice, issued as above, nor the assessment order specify as to whether the penalty proceedings was being initiated for concealment of income or for furnishing inaccurate particulars of income and as such, very initiation of penalty proceeding is void *ab intio* and deserves to be deleted. In support of his contentions, the Ld. Counsel placed reliance on the decision of Hon'ble Karnataka High Court in the case of CIT vs. Manjunatha Cotton & Ginning Factory 359 ITR 565 and also the recent decision of Hon'ble Delhi High Court in Pr. Commissioner of Income-tax Central -1 vs. Chetan Gupta [2025] 181 taxmann.com 946 (Delhi)[15-12-2025] wherein it has been held that the notice issued U/s 274 r.w.s 271(1)(c) was an invalid notice if the specific fault for which the penalty proceeding was initiated has not been rightly specified. The Ld. Counsel also stated that Hon'ble Supreme Court in multiple cases have dismissed the SLP filed by the revenue department on this issue and upheld the decisions of the Hon'ble High courts quashing the penalty notice. Reliance was placed on following decisions: -

- (i) Commissioner of Income-tax vs. SSA'S Emerald Meadows [2016] 73 taxmann.com 248 (SC) [2016] 242 Taxman 180 (SC)[05-08-2016]
- (ii) Commissioner of Income-tax (LTU) vs. State Bank of India [2024] 169 taxmann.com 305 (SC)/[2025] 302 Taxman 365 (SC) [12-11-2024]
- (iii) Principal Commissioner of Income-tax vs. Unitech Reliable Projects (P.) Ltd. (2024) 166 taxmann.com 135 (SC)/[2024] 300 Taxman 585 (SC) [2024] 469 ITR 394 (SC) [14-08-2024]

7. The Ld. Counsel, further, argued that even on merit, the issues, on which the additions were made, have either been deleted or restored back to the file of the AO by the Hon'ble ITAT vide its order dated 05/01/2026 in ITA No. 167 & 175/Ran/2017 and as such, the penalty imposed has no legs to stand. It was also brought to the notice of this Bench that the coordinated bench of this tribunal in the case of the sister company of the appellant, M/s Bharat Coking Coal Ltd vs ACIT in ITA No. 121-128/Ran/2018 dated 11/06/2025 has already quashed the penalty on similar grounds by following the above decisions.
8. The Id. CIT DR, on the other hand, has also filed written submission as under:

"From the perusal of penalty order it is seen that the appellant has not raised this technical objection before the AO during the penalty proceeding. It is worth mentioning that while rendering decision in the case of Emerald SAS Meadows Vs CIT 242 Taxmann 180, Hon'ble Karnataka High Court relied upon an earlier decision in the case of CIT Vs. Manjunatha Cotton (Supra). The decision in Manjunatha case was passed in a group of penalty cases having different facts. The relevant cases wherein facts precedent to issue of penalty notice on which Hon'ble Court gave findings in Para 59, 60 & Para 61 of their order and conclusion in Para 63 are quoted as under:

"Cases 2 and 3

- The assessee carried on the business of mining and processing of iron ore and its sale and export. A survey was conducted under section 133A and information was collected under section 133(6). The statutory returns, which were filed by the assessee, when compared with the stock position, disclosed a difference of 3 lakh metric tons. The assessee contended that it was handling bulk material and there were no facilities to weigh the ore in such quantity and stock records were maintained on estimate basis. Therefore, to ward off litigation and to buy peace in the Department, the assessee agreed that they had in stock, ores of such magnitude. Accordingly, an addition, being the value of 3 lakh metric tons, was made under section 69. Simultaneously, the*

proceedings under section 274, read with section 271(1)(c) was initiated.

- The assessee filed his objections to the same contending that the Assessing Officer had not recorded satisfaction about the assessee furnishing inaccurate particulars or concealing the income.*
- The Appellate Authority confirmed the said order of penalty.*
- The Tribunal held, that on perusal of the notice issued under section 271(1)(c), it was clear that the Assessing Authority was not sure as to whether she had proceeded on the basis that the assessee had either concealed its income or had furnished inaccurate details. Further, it held that the Assessing Officer had made additions under section 69, being undisclosed investment. In the appeal, the said finding was set-aside. But addition was sustained on a new ground, that is under valuation of closing stock. Since the Assessing Authority had initiated penalty proceedings based on the additions made under section 69, which was struck down by the Appellate Authority, the initiated penal proceedings, no longer existed. If the Appellate Authority had initiated penal proceedings on the basis of the addition sustained under a new ground, it could have had a legal sanctum. Aggrieved by the said order, the present appeal is filed by revenue."*

"NOTICE UNDER SECTION 274

***59.** As the provision stands, the penalty proceedings can be initiated on various ground set out therein. If the order passed by the Authority categorically records a finding regarding the existence of any said grounds mentioned therein and then penalty proceedings is initiated, in the notice to be issued under Section 274, they could conveniently refer to the said order which contains the satisfaction of the authority which has passed the order. However, if the existence of the conditions could not be discerned from the said order and if it is a case of relying on deeming provision contained in Explanation 1 or in Explanation 1(B), then though penalty proceedings are in the nature of civil liability, in fact, it is penal in nature. In either event, the person who is accused of the conditions mentioned in Section 271 should be made known about the grounds on which they intend imposing penalty on him as the Section 274 makes it clear that assessee has a right to contest such proceedings and*

should have full opportunity to meet the case of the Department and show that the conditions stipulated in Section 271(c) do not exist as such he is not liable to pay penalty. The practice of the Department sending a printed form where all the ground mentioned in Section 271 are mentioned would not satisfy requirement of law when the consequences of the assessee not rebutting the initial presumption is serious in nature and he had to pay penalty from 100% to 300% of the tax liability. As the said provisions have to be held to be strictly construed, notice issued under Section 274 should satisfy the grounds which he has to meet specifically. Otherwise, principles of natural justice is offended if the show cause notice is vague. On the basis of such proceedings, no penalty could be imposed on the assessee.

60. *Clause (c) deals with two specific offences, that is to say, concealing particulars of income or furnishing inaccurate particulars of income. No doubt, the facts of some cases may attract both the offences and in some cases there may be overlapping of the two offences but in such cases the initiation of the penalty proceedings also must be for both the offences. But drawing up penalty proceedings for one offence and finding the assessee guilty of another offence or finding him guilty for either the one or the other cannot be sustained in law. It is needless to point out satisfaction of the existence of the grounds mentioned in Section 271(1)(c) when it is a sine qua non for initiation or proceedings, the penalty proceedings should be confined only to those grounds and the said grounds have to be specifically stated so that the assessee would have the opportunity to meet those grounds. After, he places his version and tries to substantiate his claim, if at all, penalty is to be imposed, it should be imposed only on the grounds on which he is called upon to answer, it is not open to the authority, at the time of imposing penalty to impose penalty on the grounds other than what assessee was called upon to meet. Otherwise though the initiation of penalty proceedings may be valid and legal, the final order imposing penalty would offend principles of natural justice and cannot be sustained. Thus, once the proceedings are initiated on one ground, the penalty should also be imposed on the same ground. Where the basis of the initiation of penalty proceedings is not identical with the ground on which the penalty was imposed, the imposition of penalty is not valid. The validity of the order of penalty must be determined with reference to the*

information, facts and materials in the hands of the authority imposing the penalty at the time the order was passed and further discovery of facts subsequent to the imposition of penalty cannot validate the order of penalty which, when passed, was not sustainable.

61. *The Assessing Officer is empowered under the Act to initiate penalty proceedings once he is satisfied in the course of any proceedings that there is concealment of income or furnishing of inaccurate particulars of total income under clause (c) Concealment, furnishing inaccurate particulars of income are different. Thus, the Assessing Officer while issuing notice has to come to the conclusion that whether is it a case of concealment of income or is it a case of furnishing of inaccurate particulars. The Apex Court in the case of T. Ashok Pai CIT [2007] 292 ITR 11/161 Taxman 340 at page 19 has held that concealment of income and furnishing inaccurate particulars of income carry different connotations. The Gujarat High Court in the case of CIT. Manu Engg. (1980) 122 ITR 306 and the Delhi High Court in the case of CIT. Virgo Marketing (P) Ltd. (2008) 171 Taxman 156, has held that levy of penalty has to be clear as to the limb for which it is levied and the position being unclear penalty is not sustainable. Therefore, when the Assessing Officer proposes to invoke the first limb being concealment, then the notice has to be appropriately marked. Similar is the case for furnishing inaccurate particulars of income. The standard proforma without striking of the relevant clauses will lead to an inference as to non-application of mind."*

In view of aforesaid observations, the Hon'ble High Court in Manjunath case (supra) concluded as under:

"CONCLUSION

63. *In the light of what is stated above, what emerges is as under:*

- (a) Penalty under Section 271(1) (c) is a civil liability.*
- (b) not an essential element for imposing penalty for breach of civil obligations or liabilities.*
- (c) Willful concealment is not an essential ingredient for attracting civil liability.*
- (d) Existence of conditions stipulated in Section 271(1)(c) is a sine qua non for initiation of penalty proceedings under Section 271.*

- (e) *The existence of such conditions should be discernible from the Assessment Order or order of the Appellate Authority or Revisional Authority.*
- (f) *Even if there is no specific finding regarding the existence of the conditions mentioned in Section 271(1)(c), at least the facts set out in Explanation (A) & (B) it should be discernible from the said order which would by a legal fiction constitute concealment because of deeming provision.*
- (g) *Even if these conditions do not exist in the assessment order passed, at least, a direction to initiate proceedings under Section 271(1)(c) is a sine qua non for the Assessment Officer to initiate the proceedings because of the deeming provision contained in Section 1(B).*
- (h) *The said deeming provisions are not applicable to the orders passed by the Commissioner of Appeals and the Commissioner.*
- (i) *The imposition of penalty is not automatic.*
- (j) *Imposition of penalty even if the tax liability is admitted is not automatic.*
- (k) *Even if the assessee has not challenged the order of assessment levying tax and interest and has paid tax and interest that by itself would not be sufficient for the authorities either to initiate penalty proceedings or impose penalty, unless it is discernible from the assessment order that, it is on account of such unearthing or enquiry concluded by authorities it has resulted in payment of such tax or such tax liability came to be admitted and if not it would have escaped from tax net and as opined by the Assessing Officer in the assessment order.*
- (l) *Only when no explanation is offered or the explanation offered is found to be false or when the assessee fails to prove that the explanation offered is not bonafide, an order imposing penalty could be passed.*
- (m) *If the explanation offered, even though not substantiated by the assessee, but is found to be bonafide and all facts relating to the*

same and material to the computation of his total income have been disclosed by him, no penalty could be imposed.

- (n) The direction referred to in Explanation IB to Section 271 of the Act should be clear and without any ambiguity.*
- (o) If the Assessing Officer has not recorded any satisfaction or has not issued any direction to initiate penalty proceedings, in appeal, if the appellate authority records satisfaction, then the penalty proceedings have to be initiated by the appellate authority and not the Assessing Authority.*
- (p) Notice under Section 274 of the Act should specifically state the grounds mentioned in Section 271(1)(c), i.e, whether it is for concealment of income or for furnishing of incorrect particulars of income.*
- (q) Sending printed form where all the ground mentioned in Section 271 are mentioned would not satisfy requirement of law.*
- (r) The assessee should know the grounds which he has to meet specifically. Otherwise, principles of natural justice is offended. On the basis of such proceedings, no penalty could be imposed to the assessee.*
- (s) Taking up of penalty proceedings on one limb and finding the assessee guilty of another limb is bad in law.*
- (t) The penalty proceedings are distinct from the assessment proceedings. The proceedings for imposition of penalty though emanate from proceedings of assessment, it is independent and separate aspect of the proceedings.*
- (u) The findings recorded in the assessment proceedings insofar as "concealment of income" and "furnishing of incorrect particulars would not operate as res judicata in the penalty proceedings. It is open to the assessee to contest the said proceedings on merits. However, the validity of the assessment or reassessment in pursuance of which penalty is levied, cannot be the subject matter of penalty proceedings. The assessment or reassessment cannot be declared as invalid in the penalty proceedings."*

The order of the Hon'ble High Court in Manjunatha case (Supra), the factual and legal matrix of the case have been thoughtfully considered. The facts precedent to imposition of penalty in Manjunatha Cotton case have been outlined by the Hon'ble High Court themselves and have been quoted above. It is seen that in Manjunath Cotton's case, the AO made addition u/s 69 and initiated penalty proceedings without specifying which limb is attracted in that case. The CIT(A) deleted addition made u/s 69 but made a new addition on account of valuation of stock. On this addition made by the CIT(A), the AO imposed penalty. As the issue on which Penalty was initiated was deleted in appeal, the penalty proceeding initiated by the AO lost sanctity. The initiation of penalty would have been justified had the CITIA) initiated the same.

The facts in the instant case are strikingly different from the facts in Manjunath's case as stated above. In this case, the AO specifically mentioned that he is initiating penalty for 'concealment of income. The intent and purpose of the AO in initiation of penalty proceeding was clearly and explicitly discernible from even casual reading of his order. It is needless to point out here that the issue on which penalty was initiated and imposed was same and the assessment was not a subject matter of any appellate proceeding. Hence, from factual standpoint, the ratio of Manjunath Cotton's case is inapplicable in the present case. From legal point of view, the Hon'ble high Court has given extensive observations. The Hon'ble High Court has given finding that AO has to specify the limb of penalty Le. concealment of income or furnishing of inaccurate particulars of income. If the AO fails to do the same, the assessee may be denied of his rightful chance to properly defend his case. In other words, Hon'ble Court has held that non specification of applicable limb/non striking off of inapplicable limb is violative of principles of natural justice of availing opportunity to make his representation properly and of being effectively heard. In nutshell, the ratio laid down by the Hon'ble High Court is based upon the simple premise that it should be made well known to the assessee as to why penalty has been initiated against him so that he can make effective representation as assessment and penalty proceedings are different and invocation of penalty provisions and actual imposition of penalty is not automatic.

In Para 59 of their order, the Hon'ble High Court has held that if the AO records his observation as to why he is initiating penalty, the assessee is deemed to have been sufficiently intimated about the intent and purpose of the AO. However, if the AO fails to do so in the assessment order, then the contents of the penalty notice become vital and critical. Even at the cost of repetition the relevant extract of the decision of the Hon'ble High Court is quoted hereunder:

"59. As the provision stands, the penalty proceedings can be initiated on various ground set out therein. If the order passed by the Authority categorically records a finding regarding the existence of any said grounds mentioned therein and then penalty proceedings is initiated, in the notice to be issued under Section 274, they could conveniently refer to the said order which contains the satisfaction of the authority which has passed the order (emphasis supplied), However, if the existence of the conditions could not be discerned from the said order and if it is a case of relying on deeming provision contained in Explanation 1 or in Explanation 1(B), then though penalty proceedings are in the nature of civil liability, in fact, it is penal in nature. In either event, the person who is accused of the conditions mentioned in Section 271 should be made known about the grounds on which they intend imposing penalty on him as the Section 274 makes it clear that assessee has a right to contest such proceedings and should have full opportunity to meet the case of the Department and show that the conditions stipulated in Section 271(1)(c) do not exist as such he is not liable to pay penalty"

In the present case, there was a singular issue in the assessment. The AO also spelt out that the penalty proceedings were being initiated for concealment of income as the appellant disclosed additional income only as a consequence of search. During penalty proceedings also, the AO gave ample opportunities to the appellant. This being a search case, the appellant had trained tax experts at his disposal. The appellant also properly participated in the assessment proceedings and was suitably represented by a chartered accountant. Hence, it can safely be concluded:

- (i) *That the AO successfully intimated his intent and purpose to the appellant regarding limb under which penalty was exigible in the appellant's case.*
- (ii) *That there being only one issue of undisclosed income disclosed by the appellant after search in the Return of Income, the appellant was well aware about proceedings in his case.*
- (iii) *The appellant was given reasonable opportunities of being heard.*
- (iv) *The appellant was throughout having expert at his side to make him aware about the consequences of various notices issued to the appellant.*
- (v) *In replies filed before the AO during penalty proceedings, the appellant appears to have understood the importance of term 'concealment' and attempted to make out a point that in the facts and evidences of his case, no concealment was found against him.*

The above conclusions get further strengthened and fortified by the conclusions in Para 63 point (e) to (g) of the order of the Hon'ble High Court which are again reproduced here:

- "(e) The existence of such conditions should be discernible from the Assessment Order or order of the Appellate Authority or Revisional Authority.*
- (f) Even if there is no specific finding regarding the existence of the conditions mentioned in Section 271(1)(c), at least the facts set out in Explanation 1(A) & (B) it should be discernible from the said order which would by a legal fiction constitute concealment because of deeming provision.*
- (g) Even if these conditions do not exist in the assessment order passed, at least, a direction to initiate proceedings under Section 271(1)(c) is a sine qua non for the Assessment Officer to initiate the proceedings because of the deeming provision contained in Section 1(B)."*

In view of above, it is held that the ratio and findings in the case of Manjunath Cotton (Supra) are totally inapplicable in the given facts of the case. On the contrary, the ratio laid down by the Hon'ble Court in Manjunath Cotton's case support the case of the AO as discussed in detail. The reliance on the decision

of Hon'ble Karnataka High Court in SSA Emerald Vs CIT (supra) which is based on the decision of the Hon'ble Karnataka High Court in Manjunatha's case is of no avail to the assessee as the facts are entirely different and legal position pronounced by the Hon'ble Court supports the case of the AO in the instant case.

The ratio of Hon'ble Manjunath Cotton's case came to be discussed in the case of Gangotri Textiles Vs. CIT 121 taxmann.com 171 (Madras) as well as in Sundaram Finance Vs ACIT (2018) 93 taxmann.250 (Madras). In both cases SLPs have been dismissed by the Hon'ble Supreme Court. This very question was considered in the case of Sundaram Finance Ltd., wherein an identical submission was made by the assessee by placing reliance on Manjunatha Cotton and Ginning Factory case. The Hon'ble Court taking note of the fact that the authorities concurrently rejected the explanation offered by the assessee and refused to interfere with the factual finding In paragraph 16 of the judgment, the argument regarding the defective notice was considered and answered against the assessee which is quoted herein below:

**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, 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."

In the case of Gangotri Textiles Vs CIT 121 taxmann.com 171 (Madras) also it was held that when the assessee has understood the intent and purport of notice and has made submissions before the AO, he is not permitted to raise such issues before the judicial authorities. Relevant para is as under:

"Whether since assessee replied to notice understanding notice to be a notice for concealment of any income or furnishing any inaccurate particulars, it could not be permitted to raise a contention before Court for the first time alleging defect in notice - Held, yes"

The crux of the above discussion is that in the decision of Hon'ble Karnataka High Court in SAS Emerald case(supra) against which SLP was not admitted by the Hon'ble Apex Court, the ratio has been borrowed from the decision of Hon'ble High Court of Karnataka in Manjunatha Cotton case. The ratio of Manjunatha cotton case has been held to be applicable against the appellant in the instant case as discussed above. Moreover, the ratio of Manjunath Cotton case has been discussed in the decisions of Hon'ble High Court of Madras in the cases of Sundaram Finance and Gangotri Textiles. Against both these orders SLPs have been dismissed by the Hon'ble Apex Court. Hence, the issue has not attained finality by a speaking order of the Hon'ble Supreme Court. Hence, analysis of facts precedent to levy of penalty becomes absolutely vital. In this case, the AO categorically mentioned in his order that penalty is being initiated for concealment of income. There was a single issue of disclosure of undisclosed income. This is a search case. The appellant had services of experts to help him out in understanding the nuances of penalty notices. The appellant duly participated in the penalty proceedings. The appellant clearly understood as to why penalty proceeding was initiated against him. This is evident from his reply during penalty proceedings as reproduced in penalty

order passed by the AO wherein appellant is submitting that "from bare perusal of the word "undisclosed income" we find that in order to bring.....

Therefore, by no stretch of imagination it can be summed up that the non striking off of inapplicable limb between 'concealment' or 'furnishing of inaccurate particulars' has denied the appellant of natural justice. Hence, it is concluded that even if there was defect in the penalty notice, the AO was fair and justified in imposing penalty on the appellant.

Facts Distinguishable from the decision of Hon'ble Supreme Court in CIT Vs Reliance Petroproducts (P) Ltd.

The Supreme Court's decision in CIT v. Reliance Petroproducts (P) Ltd. (2010) held that merely making a claim in a tax return that is later found to be unsustainable in law, but where all the facts are fully disclosed, does not automatically attract a penalty under Section 271(1)(c) of the Income-tax Act, 1961. The core principle was that the details furnished in the return must be factually inaccurate or income must be "concealed for the penalty provision to apply.

This decision has been distinguished in subsequent cases, such as Dharmendra Textiles, MAK Data, and Zoom Communications, primarily by focusing on the factual matrix and the assessee's conduct and bona fides, rather than solely on the legal interpretation:

- Union of India v. Dharmendra Textile Processors (2008) While the Reliance Petroproducts case later clarified that Dharmendra Textiles only overruled the part of an earlier decision (Dilip N. Shroff) that required mens rea (guilty intention) for imposing a penalty, it did not alter the fundamental requirement that there must be actual concealment particulars furnishing particulars. Dharmendra Textiles established a strict liability for penalty once the conditions of concealment or inaccuracy are met, irrespective of the assessee's intention. The Reliance Petroproducts case then refined this by stating that a bona fide legal claim with full disclosure is not the same as furnishing "inaccurate particulars".*
- MAK Data P. Ltd. v. CIT (2013): The Supreme Court distinguished Reliance Petroproducts by focusing on the assessee's failure to provide*

a satisfactory explanation for an amount surrendered during a survey operation. In MAK Data, the assessee simply offered to surrender income "to avoid litigation and buy peace," without providing any substantive explanation for the source of the funds when confronted with incriminating documents. The Court held that such an unexplainable amount, detected during an investigation, attracted the presumption of concealment under the Explanation to Section 271(1)(c), distinguishing it from the bona fide legal claim made with full disclosure in Reliance Petroproducts.

- *CIT. Zoom Communication Pvt. Ltd. (2010) The Delhi High Court distinguished Reliance Petroproducts on the facts, finding that the assessee's conduct in Zoom Communications was not bona fide. The assessee had debited amounts like "equipment written off and "income tax paid to the Profit & Loss account and failed to add them back in the income computation due to a purported "oversight," a claim found to be legally untenable and lacking a convincing explanation despite professional assistance. The court held that where a claim for deduction is not bona fide and facts point towards an attempt to reduce taxable income without a proper explanation, it amounts to furnishing inaccurate particulars, unlike the situation in Reliance Petroproducts where the details were fully disclosed and the claim was a matter of legal interpretation."*

9. So what is discernible from the above submissions that it is the case of the appellant company that since the Assessing Officer has not specified in the said penalty notice issued under Section 274 read with section 271(1)(c) of the Act dated 10/11/2017 as to whether the penalty was initiated for 'furnishing inaccurate particulars of income' or 'concealing the particulars of income', the notice is void ab initio and thus, all subsequent actions of the AO have become null and void in view of the decisions of the various courts including the Hon'ble Apex Court on which the counsel of the appellant

company has placed reliance on (supra.). The Ld. Departmental Representative, on the other hand, has raised objection to the fact that the appellant has not raised this technical objection before the AO. Secondly, the decision in Manjunath case as cited by the appellant's counsel was passed on different set of facts as the Assessing officer in the instant case has specifically mentioned that he is initiating penalty for 'concealment of income.' Therefore, the ratio of Manjunath case is not applicable in the present case as once the intent and purpose of initiating penalty was intimated to the assessee, it is presumed that the assessee has understood why the penalty was initiated. Reliance was placed by the Ld. CIT DR on the decision in the case of Gangotri Textiles Vs CIT 121 taxmann.com 171 (Madras) wherein it was held that when the assessee has understood the intent and purport of notice and has made submissions before the AO, he is not permitted to raise such issues before the judicial authorities. The relevant para as quoted by him reads as under:

"Whether since assessee replied to notice understanding notice to be a notice for concealment of any income or furnishing any inaccurate particulars, it could not be permitted to raise a contention before Court for the first time alleging defect in notice - Held, yes"

10. It was, further, emphasized by him that the decisions of the various courts, including the apex court on which the appellant's counsel has placed reliance on, are distinguishable on facts and thus, placing reliance on the decision of Hon'ble Karnataka High Court in SSA Emerald Vs CIT (supra) which is based on the decision of the Hon'ble Karnataka High Court in Manjunatha's case is of no avail to the assessee and, even if, there was defect in the penalty notice, the AO was fair and justified in imposing penalty on the appellant. Finally, the

Ld. CIT DR by placing reliance on the decisions of Hon'ble Supreme Court in *CIT v. Reliance Petroproducts (P) Ltd. (2010)*, *Union of India v. Dharmendra Textile Processors (2008)*, *MAK Data P. Ltd. v. CIT (2013)* and *Delhi High Court decision in CIT. Zoom Communication Pvt. Ltd. (2010)* contended that the facts in the instant case are different from the facts of the cases mentioned in the decisions of the various courts and therefore, the penalty imposed by the AO is fully justified.

11. We have considered the rival submissions. We find that this Bench has already considered this issue at length and deleted the penalty imposed under Section 271(1)(c) of the Act on this very ground in various cases including the case of M/s Bharat Coking Coal Ltd. Vs ACIT in ITA No. 121, 122, 124, 125, 127 and 128/Ran/2018 dated 11/06/2025 wherein this Bench has already deleted the penalty by holding as under:

"6. We have carefully considered the facts of the case, the rival submissions and provisions of the Act in this regard and also the relevant case laws. It may be stated here that similar issue has already been dealt with by this Bench in its recent decision in the case of Raj Kumar Agrawal vs CIT for Assessment Years 2012-13 to 2016-17 in ITA No.255- 258/Ran/2023 dated 26th August 2024. In this case also, the assessee contested penalty order u/s 271(1) (c) on alleged defective notice issued u/s 274 of the Act. The Bench after taking note of the facts of the case and proposition of law as emerging from cited decisions cancelled all the penalty orders. The operative part of the appeal is reproduced as below for ready reference: -

"4. We observe from the notices above that the limb on which the penalty has been imposed is not specified. The inappropriate portion of the notice has not been struck off. It is discernible that the AO had not struck off either of the two limbs i.e. concealment of the particulars of income; and furnishing of inaccurate particulars. The Full bench of the Hon'ble Bombay High Court in Mohd. Farhan A. Shaik vs. Dy. CIT (2021) 125 taxmann.com 253 (Bom.) considered this very issue. Answering the

question in affirmative, the full bench held that a defect in notice of not striking the inappropriate words vitiates the penalty even though the AO had properly recorded the satisfaction for imposition of penalty in his order u/s143 (3) of the Act. In another judgment, the Hon'ble Bombay High Court in Pr. CIT vs. Golden Peace Hotels and Resorts (P) Ltd. (2021) 124 taxmann .com 248 (Bom.) also took similar view that where the portions which are inapplicable in the penalty notice were not struck off, the penalty was vitiated. SLP of the Department against this judgment has been dismissed by the Hon'ble Supreme Court in Pr. CIT vs. Golden Peace Hotels and Resorts (P) Ltd. (2021) 124 taxmann.com 249 (S.C).

5. *The Hon'ble Karnataka High Court in SSA Emeralds Meadows vs. CIT 242 taxmann 180 also echoed the view that if the charge of penalty is not specific in the notice issued to the assessee u/s 274 r.w.s.271 (1) (c) of the Act, meaning thereby if such notice is ambiguous as to whether penalty is levied for concealment of income or for providing of inaccurate particulars of income, then such notice is void ab initio and bad in law. This view of the Hon'ble Karnataka High Court was upheld by the Hon'ble Apex Court whereby the SLP filed by the Department was dismissed in CIT vs. SSA Emeralds Meadows (2016)242 taxmann 180 (S.C).*
 6. *We must reiterate and we feel appropriate in this context of adjudication also to revisit the classic decision of Hon'ble Karnataka High Court in CIT & Anr. vs. Manjunatha Cotton & Ginning Factory 359 ITR 565 (Kar.) wherein the court had enshrined that levy of penalty is altogether different from assessment procedures. The penalty cannot be levied in a routine manner. The principles of natural justice must be followed wherein the notice served on the assessee must clearly and unambiguously specify the charge on which the Department proposes to levy the penalty so that the assessee can be ready with his defence and prepare his case and submissions accordingly.*
 7. *In view thereof, even without going into the merits of the extant cases only on the very legal premise that in the penalty notice issued u/s 274 r.e.s.271(1)(c) of the Act, the inapplicable words were not struck off, the levy of penalty therefore is vitiated and is held bad in law. We therefore, set aside the orders of the Id. CIT(A) and direct the AO to delete the penalty from the hands of the assessee for the years hereinabove enumerated in the cause title."*
7. *Since the issue in hand hinges on the alleged defective show cause notice issued in terms of section 274 of the Act is similar, following this Bench's decision in the*

case of Raj Kumar Agrawal (supra), we, set aside the penalty order and direct the AO to delete the penalty imposed on the assessee."

Thus, considering the similar set of facts involved in this appeal also and keeping in view the principle of consistency, we delete the penalty imposed by the Assessing Officer on the appellant company and allow the appeal of the assessee.

12. Now coming to the Revenue's appeal in ITA No. 206/Ran/2024 for the A.Y. 2009-10, since we have already deleted the penalty in the assessee's appeal on same ground and on similar set of facts, the revenue's appeal is also dismissed.
13. In the result, appeal of the assessee is allowed and the appeal of the revenue is dismissed.

Order pronounced in open court on 20/02/2026.

Sd/-
(GEORGE MATHAN)
JUDICIAL MEMBER

Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER

Ranchi, Dated: 20/02/2026

**Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Ranchi