

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

ITA Nos.2871, 2872, 2873 & 2874/PUN/2025
Assessment Years : 2010-11, 2012-13, 2013-14 & 2009-10

Veena Industries Pvt. Ltd., Gat No.309, Nanekarwadi, Chakan, Koyali B.O., Bham, Pune- 410501. PAN : AAACV9329E	Vs.	DCIT, Central Circle-2(1), Pune.
Appellant		Respondent

Assessee by : Shri Neelesh Khandelwal
Revenue by : Shri Amit Bobde
Date of hearing : 09.03.2026
Date of pronouncement : 10.04.2026

आदेश / ORDER

PER BENCH :

These appeals filed by the assessee are directed against the separate orders dated 16.09.2025 passed by Ld. CIT(A), Pune-12 [‘Ld. CIT(A)’] for the assessment years 2010-11, 2012-13, 2013-14 & 2009-10 respectively.

2. Since identical facts and common issues are involved in all the above captioned four appeals of the assessee, therefore, we proceed to dispose of the same by this common order.

3. First, we shall take up the appeal of the assessee in ITA No.2874/PUN/2025 for adjudication as the lead case.

ITA No.2874/PUN/2025, A.Y. 2009-10 :

4. The appellant has raised the following grounds of appeal :-

- “1. *On facts and circumstances prevailing in the case and as per provisions of law and scheme of the Act, it be held that the levy of penalty under section 271(1)(c) of the Income-tax Act, 1961 ("the Act") by the Learned Assessing Officer ('Ld. AO') and further upheld by the First Appellate Authority is improper, unjustified and contrary to the provisions of the Act. The penalty order be treated as null and void. The Appellant be granted just and proper relief in this respect.*
2. *On facts and circumstances prevailing in the case and as per provisions of law and scheme of the Act, it be held that the penalty levied u/s 271(1)(c) of the Act by the Ld. AO and further upheld by the First Appellate Authority is bad in law and liable to be quashed, since the penalty proceedings were initiated for one limb of section 271(1)(c) of the Act, whereas the penalty has ultimately been imposed for the other limb. The penalty order be treated as null and void. The Appellant be granted just and proper relief in this respect.*
3. *The Appellant prays to be allowed to add, amend, modify, rectify, delete, and raise any grounds of appeal at the time of hearing.”*

5. Facts of the case, in brief, are that the assessee is a company engaged in the business of fabrication manufacturing and assembling of canopy and electrical gensets and has filed its original return of income on 29.12.2009 declaring an income of Rs.7,16,44,790/-. The case was selected for scrutiny and assessment order u/s 143(3) of the IT Act was passed on

29.12.2011 wherein income of Rs.10,67,87,682/- was determined. A search and seizure action was carried out in Agrawal Group of cases on 17.12.2013 wherein the present assessee was also covered u/s 132 of the IT Act. Accordingly, assessment order u/s 143(3) r.w.s. 153A of the IT Act were passed on 09.03.2016 and total income of Rs.23,04,24,952/- was determined. The above assessed income includes addition of Rs.15,87,80,162/-. In first appeal, vide order dated 28.10.2019, Ld. CIT(A) partly allowed the appeal filed by the assessee and deleted additions of Rs.14,44,27,434/- and remaining additions of Rs.1,43,52,726/- were sustained. However, the Assessing Officer vide order dated 02.09.2021 levied/calculated penalty u/s 271(1)(c) of the IT Act on the quantum addition of Rs.1,95,13,037/- instead of on addition of Rs.1,43,52,726/-.

6. Being aggrieved with the above penalty order, the assessee preferred an appeal before Ld. CIT(A). After considering the submissions of the assessee, Ld. CIT(A) dismissed the appeal filed by the assessee and confirmed the penalty imposed u/s 271(1)(c) of the IT Act.

7. It is the above order against which the assessee is in appeal before this Tribunal.

8. We have heard Ld. Counsels from both the sides and perused the material available on record including the paper book furnished by the assessee. In ground nos.1 & 2, the assessee has challenged the levy of penalty u/s 271(1)(c) of the IT Act. In this regard, we find that the Assessing Officer found that no services were actually rendered by M/s Metal Linkers to the assessee and it was also confirmed by Viom Network Ltd. and Huawei Telecommunication India Pvt. Ltd. that M/s. Metal Linkers International Ltd. was not the mediator hence the commission expenditure in respect of M/s. Metal Linkers International Ltd. to the tune of Rs.1,82,13,037/- is not genuine and accordingly the same was disallowed and added to the income of the assessee and penalty u/s 271(1)(c) for furnishing inaccurate particulars of income was levied. Similarly, the Assessing Officer found that commission of Rs.13,00,000/- was paid to M/s. Karan Enterprises (Rs.7,00,000/-) and M/s. Shiva Engineers (Rs.6,00,000/-) and issued notice u/s 133(6) of the IT Act to both the above parties, however the letters were returned back unserved. Further opportunity was also provided to the

assessee to furnish the bills and TDS certificates in respect of payment to these parties but assessee could not furnish the details. Accordingly, the Assessing Officer disallowed the above expenses of Rs.13,00,000/- and added the same to the income of the assessee and subsequently penalty u/s 271(1)(c) of the IT Act was also levied for furnishing inaccurate particulars of income. Under the above facts and in the circumstances of the case, we are of the considered opinion that the assessee has furnished inaccurate particulars of income and therefore liable for penalty u/s 271(1)(c) of the IT Act, accordingly ground nos.1 & 2 are dismissed.

9. It is the alternate plea of the counsel of the assessee that the penalty, if any, is required to be levied only on the quantum addition which was sustained by Ld. CIT(A). In this regard, we find that the order dated 09.03.2016 passed u/s 143(3) r.w.s. 153A of the IT Act, additions of Rs.15,87,80,162/- were made, subsequently Ld. CIT(A) vide order dated 28.10.2019 deleted the addition of Rs.14,44,27,434/- accordingly quantum addition of only Rs.1,43,52,728/- was sustained. However, we find that the penalty u/s 271(1)(c) of the IT Act was calculated on quantum addition of Rs.1,95,13,037/- (1,82,13,037 + 13,00,000) which is a

mistake apparent on the face of the record. In this regard, we further find that even in order giving effect which is produced before the bench the Assessing Officer himself has determined total income of Rs.8,59,97,516/- as against the income of Rs.7,16,44,790/- returned by the assessee, which is resulting in an addition of only Rs.1,43,52,728/-. Consequently, the penalty u/s 271(1)(c) of the IT Act, if any, could be levied only on the basis of quantum addition of Rs.1,43,52,728/- only.

10. Considering the totality of the facts of the case and in view of above discussion, we deem it appropriate to set-aside the order passed by Ld. CIT(A) and direct the Assessing Officer to recalculate the penalty u/s 271(1)(c) of the IT Act on the basis of quantum addition of Rs.1,43,52,728/- only. Accordingly, the alternate plea of the assessee is allowed.

11. In the result, the appeal of the assessee in ITA No.2874/PUN/2025 for A.Y. 2009-10 is partly allowed.

ITA No.2871/PUN/2025, A.Y. 2010-11 :

12. Since the facts and issues involved in the appeal of the assessee for assessment year 2009-10 are identical to the facts and issues involved in the appeal of the assessee for assessment year

2010-11, therefore, our decision in ITA No.2874/PUN/2025 for A.Y. 2009-10 shall apply *mutatis mutandis* to the appeal of the assessee in ITA No.2871/PUN/2025 for A.Y. 2010-11. Accordingly, the appeal of the assessee in ITA No.2871/PUN/2025 for A.Y. 2010-11 is partly allowed.

13. In the result, the appeal of the assessee in ITA No.2871/PUN/2025 for A.Y. 2010-11 is partly allowed.

ITA No.2872/PUN/2025, A.Y. 2012-13 :

14. In this appeal, the Assessing Office levied the penalty u/s 271(1)(c) of the IT Act of Rs.1,08,43,570/- on the basis of quantum addition of Rs.3,34,26,535/- made by the Assessing Officer by disallowing the commission expenses of Rs.3,21,65,372/- paid to Rathi Supersteel Ltd. and by disallowing the preliminarily expenses of Rs.12,61,163/-. In this regard, we find that the penalty u/s 271(1)(c) of the IT Act for furnishing inaccurate particulars of income has already been confirmed by us in earlier two appeals for A.Y. 2009-10 and 2010-11 and directed the Assessing Officer to re-calculate the penalty on the basis of addition sustained by Ld. CIT(A). However, in this case, we find that the penalty was rightly calculated on the basis of quantum

addition sustained by Ld. CIT(A). Accordingly, we do not find any error in the order passed by Ld. CIT(A) wherein he confirmed the penalty u/s 271(1)(c) of the IT Act levied by the Assessing Officer. Thus, the grounds of appeal raised by the assessee in this appeal are dismissed.

15. In the result, the appeal of the assessee in ITA No.2872/PUN/2025 for A.Y. 2012-13 is dismissed.

ITA No.2873/PUN/2025, A.Y. 2013-14 :

16. Facts of the case, in brief, are that the assessee is a company engaged in the business of fabrication manufacturing and assembling of canopy and electrical gensets and has filed its original return of income on 22.11.2013 declaring loss of Rs.22,83,68,460/-. A search and seizure action was carried out in Agrawal Group of cases on 17.12.2013 wherein the present assessee was also covered u/s 132 of the IT Act. Accordingly, assessment order u/s 143(3) r.w.s. 153A of the IT Act was passed on 09.03.2016 and Rs.Nil income was determined after set-off of loss of Rs.2,15,43,314/- as against returned loss of Rs.22,83,68,460/-. The above assessed income includes addition of Rs.24,99,11,774/- which pertains to disallowance of

commission expenses of Rs.2,43,335/- & addition u/s 41(1) of the IT Act on account of waiver of loan of Rs.24,96,68,439/- by two banks in one time settlement scheme. Penalty proceedings u/s 271(1)(c) were also initiated. In first appeal, vide order dated 28.10.2019, Ld. CIT(A) partly allowed the appeal filed by the assessee and deleted additions of Rs.23,55,47,912/- and remaining additions of Rs.1,43,63,862/- were sustained which comprises of Rs.1,41,20,527/- interest component waived by the bank & Rs.2,43,335/- commission expenses. Accordingly, the Assessing Officer vide order dated 02.09.2021 levied/calculated penalty of Rs.46,59,640/- u/s 271(1)(c) of the IT Act on the remaining quantum addition of Rs.1,43,63,862/- for furnishing inaccurate particulars of income.

17. Being aggrieved with the above penalty order, the assessee preferred an appeal before Ld. CIT(A). After considering the submissions of the assessee, Ld. CIT(A) appeal dismissed the appeal filed by the assessee and confirmed the penalty of Rs.46,59,640/- imposed u/s 271(1)(c) of the IT Act by observing as under :-

“5.5.1 The appellant's main plea is that all facts relating to commission expenditure and preliminary expenses were duly

disclosed, and therefore no penalty under section 271(1)(c) can be levied. The appellant has also argued that the claim of commission payment was made on the basis of agreements and TDS deductions. and the disallowance arose only because the authorities did not accept the evidence as sufficient. It has further been contended that the disallowance relating to commission expenses is tax neutral in view of deduction u/s 801B(4) available to the Silvassa Unit, and hence no motive to conceal income or furnish inaccurate particulars can be attributed.

5.5.2 These arguments, however, cannot be accepted in light of the factual position established by the Assessing Officer. The appellant claimed commission expenditure of Rs. 2,43,335/- payable to M/s Rathi Super Steel Ltd. as mediator in securing business. The AO, on the basis of seized emails and confirmations obtained from the appellant's customers, established that the said party had no role in the procurement or negotiation of orders. The alleged intermediary services were, in fact, carried out by the appellant's own employees. During the assessment proceedings. the Assessing Officer examined the veracity of the claim by directly verifying from the customers Huawei Telecommunications India Pvt. Ltd. & Viom Networks Ltd. The responses categorically confirmed that M/s. Rathi Super Steel Ltd. had played no role in procuring orders or facilitating any transaction. Thus, the core premise of the appellant's claim that Rathi Super Steel Ltd acted as mediator stood disproved by independent third-party evidence. No contemporaneous evidence such as correspondence, minutes, or communication substantiating the intermediary's role was produced by the appellant. On the contrary, the documentary evidence gathered during search clearly disproved the appellant's claim. Thus, the claim of commission expenditure was not a case of a debatable interpretation but a clear case of making a false claim. Furnishing agreements and deducting TDS cannot substitute for the requirement of proving actual services rendered. Therefore, the appellant's explanation cannot be accepted as bona fide, and the disallowance represents income in respect of which inaccurate particulars were furnished.

5.5.3 The contention regarding tax neutrality is also without merit. Penalty under section 271(1)(c) is linked to the act of furnishing inaccurate particulars of income or concealment of income, and not to whether such addition ultimately alters the quantum of tax payable or losses carried forward. What is relevant is whether a false claim has been made in the return of income, and in this case, there is positive evidence that the appellant's claims were unsustainable.

5.5.4 In view of the above facts, I hold that the appellant failed to substantiate its explanation, which is neither bona fide nor

supported by material evidence. The conditions of Explanation 1 to section 271(1)(c) are attracted, and the penalty levied by the AO is justified. Accordingly, the penalty levied by the Assessing Officer on this issue is upheld.

Findings on Penalty in respect of Rs. 1,41,20,257/- (Waiver of Interest):

5.6.1 From the records, it is evident that out of the total amount of Rs. 24,96,68,439/- written off by HSBC Bank and Barclays Bank under the one-time settlement, a portion of Rs. 1,41,20,257/- represented interest liability. This interest had already been claimed by the assessee as revenue expenditure in the earlier assessment years and deduction had been allowed accordingly. Subsequently, when the banks waived this liability, the amount ceased to be payable. By the express provisions of section 41(1) of the Act, such remission of a liability that was earlier claimed as a deduction automatically becomes taxable in the year of waiver.

5.6.2 The assessee, however, treated the entire waiver of Rs. 24,96,68,439/- as a capital receipt and reduced it from the computation of taxable income. This conscious action of treating even the waiver of interest as a capital receipt is contrary both to the settled principles of law and to the factual position of the case. The assessee was fully aware that the interest portion had been claimed as deduction in the earlier years and had been allowed as such, yet it proceeded to reduce this sum from its total income while filing its return. This shows that the assessee not only failed to disclose the correct particulars but also furnished inaccurate particulars of income with respect to the sum of Rs. 1,41,20,257/-.

5.6.3 The explanation offered by the assessee that the entire waiver was disclosed in the financial statements under "exceptional items" and therefore there was no concealment, is not sufficient to absolve it from penalty. Disclosure in the financial statements cannot substitute for correct reporting in the return of income. What is material under section 271(1)(c) is whether the particulars furnished in the return are accurate and in accordance with the law. In this case, while the assessee disclosed the fact of waiver, it deliberately adopted an incorrect treatment in the computation of income by reducing even the interest portion as if it were a capital receipt. Such an explanation cannot be regarded as bona fide, because the assessee was aware of the nature of the waiver and its taxability under section 41(1).

5.6.4 It is also important to note that this is not a case of mere difference of opinion or debatable claim. The distinction between waiver of principal (capital in nature) and waiver of interest (revenue in nature and taxable u/s 41(1)) is well established and unambiguous.

The assessee had claimed the interest as an expenditure earlier, therefore, when the liability was waived, its taxability was automatic. By treating it as a capital receipt, the assessee furnished inaccurate particulars of income and sought to evade tax on a sum which was otherwise clearly taxable.

5.6.5 *The appellant has argued that since the additions made by the Assessing Officer were partly reduced by the CIT(A) and confirmed by the ITAT only to the extent of Rs. 1,41,20,257/-, the very basis for levy of penalty has changed, and therefore the penalty order should not survive. This contention is misconceived. It is well settled that penalty proceedings are independent of assessment proceedings, though they emanate therefrom. What is relevant is not the quantum of addition initially made by the Assessing Officer but the final addition that survives after appellate proceedings. If any part of the addition is upheld on merits, penalty can still be validly levied with reference to that portion, provided it is established that the assessee has either concealed income or furnished inaccurate particulars of income in respect of the sustained addition.*

5.6.6 *In the present case, while the Assessing Officer initially made addition of Rs. 24,96,68,439/- on account of loan waiver, the appellate authorities restricted the disallowance to Rs. 1,41,20,257/- being the portion relatable to interest. Thus, though the quantum has been reduced, the foundation for levy of penalty remains intact in respect of the surviving addition. The reduction in the amount disallowance does not wipe out the finding that the assessee had treated even the remission of interest liability which was clearly taxable under section 41(1) as a capital receipt and excluded it from the computation of income. This constitutes furnishing of inaccurate particulars of income, attracting the provisions of section 271(1)(c).*

5.6.7 *Therefore, the argument of the appellant that the "base has changed" and hence the penalty cannot be sustained is without merit. Penalty can lawfully be levied with reference to the sustained addition of Rs. 1,41,20,257/-, and the reduction of the disallowance does not in any way vitiate the penalty proceedings. On the contrary, it reinforces the position that penalty has been levied only on the finally sustained addition, which is in line with settled principles of law.*

5.6.8 *In view of these facts, I hold that the conditions laid down in Explanation 1 to section 271(1)(c) are fully attracted in respect of the waiver of interest amounting to Rs. 1,41,20,257/-. The assessee has failed to offer a bona fide explanation or substantiate the same with relevant evidence. Accordingly, the penalty levied by the Assessing Officer on this issue is upheld.*

5.7 Accordingly, Grounds No. 1 and 2 of the appeal are dismissed.”

18. It is the above order against which the assessee is in appeal before this Tribunal.

19. We have heard Ld. counsels from both the sides and perused the material available on record. In this regard, we find that the penalty u/s 271(1)(c) of the IT Act of Rs.46,59,640/- was levied on the basis of two additions. First on the basis of disallowance of commission expenses of Rs.2,43,335/- and secondly on the basis of addition of Rs.1,41,20,527/- u/s 41(1) of the IT Act regarding waiver of interest component on loan in one time settlement. With regard to penalty on the basis of disallowance of commission expenses of Rs.2,43,335/-, we find that the Assessing Officer conducted enquiry from Viom Networks & Huawei Telecommunication India Pvt. Ltd. and they confirmed that there was no mediator therefore the Assessing Officer disallowed the commission expenses paid to Rathi Super Steel Ltd. Considering the above fact, we are of the view that the assessee has furnished inaccurate particulars of income and therefore the disallowance of commission expenses of Rs.2,43,335/- attracts penalty u/s

271(1)(c) of the IT Act. Accordingly, we confirm the proportionate penalty u/s 271(1)(c) of the IT Act on account of disallowance of commission expenses of Rs.2,43,335/-.

20. Regarding levy of penalty on the basis of addition of Rs.1,41,20,527/- u/s 41(1) of the IT Act, we find that the assessee has not furnished inaccurate particulars of income since the outstanding amount was waived off by banks under one time settlement and the assessee was under bonafide belief that the impugned amount of Rs.1,41,20,527/- was not required to be added in the income since assessee has paid Rs.7,25,00,000/- for waiver of bank loan liability under one time settlement scheme. In this regard, we find support from the decision passed by a coordinate bench of this Tribunal in the case of Mula Pravara Electric Co-Operative Society Ltd. vs. DCIT [2015] 60 taxmann.com 424 (Pune – Trib.) wherein under more or less similar facts the Tribunal deleted the penalty u/s 271(1) c of the IT Act & allowed the appeal of the assessee by observing as under :-

“20. In the present case, the AO has levied the penalty under s. 271(1)(c) on the specific charge of furnishing inaccurate particulars of income and the same has been endorsed by the learned CIT(A) while confirming the penalty. A penalty under s. 271(1)(c) can only be imposed if the mandates of the said section are fulfilled and it is not an automatic consequence of an addition made to the income of the assessee in the course of assessment proceedings. The finding

recorded in the assessment order may constitute good evidence in the penalty proceedings but those findings cannot be regarded as a conclusive proof for the purpose of levy of the penalty and addition being made to the income does, because of impact of Explan. 1, effectively raised a presumption against the assessee but that is entirely rebuttable presumption and the same of rebuttal is provided in the Explanation itself. There is no dispute about the fact that the assessee has consistently taken the stand from the very beginning that the benefit received or accrued in consequence of the Govt. Resolution dt. 21st May, 1999 are to be spread over from 1977-78 to 1999-2000 which is a period covered in the said GR. The expressions "inaccurate" and "particulars" have been explained by the Hon'ble Supreme Court in the decision of Reliance Petroproducts (P.) Ltd. (supra). We have examined the explanation of the assessee in the backdrop of Explan. 1 of s. 271(1)(c) and it cannot be said that the explanation is not bona fide as the assessee has placed all the facts on record which are required for computation of the income. The only dispute is the applicability of s. 41(1) of the IT Act. As rightly argued by the learned counsel, tax law is such complex it cannot be said that there was some conscious act on the part of the assessee for not considering s. 41(1) to the extent, of benefit accrued vide Govt. Resolution dt. 21st May, 1999 by the reduction of the MSEB liability. We are, therefore, of the opinion that there was no justification on the part of the AO for levying the penalty on the assessee under s. 271(1)(c) of the Act. We, accordingly, delete the penalty levied by the AO and allow the grounds taken by the assessee.

21. In the result, the assessee's appeal is allowed."

21. Respectfully following the above decision of the Tribunal (supra), we are of the considered opinion that under the facts and circumstances of the instant case the addition of Rs.1,41,20,527/- u/s 41(1) of the IT Act does not attract penalty u/s 271(1)(c) of the IT Act, therefore, we deem it appropriate to set-aside the order passed by Ld. CIT(A) and direct the Assessing Officer to delete the proportionate penalty u/s 271(1)(c) of the IT Act calculated on the

basis of addition of Rs.1,41,20,527/-. Thus, the grounds of appeal raised by the assessee are partly allowed.

22. In the result, the appeal of the assessee in ITA No.2873/PUN/2025 for A.Y. 2013-14 is partly allowed.

23. To sum up, the appeals of the assessee in ITA Nos.2874 & 2871/PUN/2025 for A.Y. 2009-10 & 2010-11 are partly allowed.

The appeal of the assessee in ITA No.2872/PUN/2025 for A.Y. 2012-13 is dismissed. The appeal of the assessee in ITA No.2873/PUN/2025 for A.Y. 2013-14 is partly allowed.

Order pronounced on this 10th day of April, 2026.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 10th April, 2026.

Sujeet/DOC

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), Pune-12.
4. The Pr. CIT/CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

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Assistant Registrar
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.