

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA (DB) BENCH, AGRA**

**BEFORE: SHRI M BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 502/Agr/2025
Assessment Year: 2014-15**

Bipin Babu Agrawal, 16, Kamla Vihar Colony, Mathura-281001	Vs.	DCIT, Ayakar Bhawan, Sanjay Place, Agra-282002
PAN : AAWPA0864C		
(Appellant)		(Respondent)

Assessee by	Shri M.M. Agarwal, CA
Department by	Shri Anil Kumar, Sr. DR

Date of hearing	20.01.2026
Date of pronouncement	17.04.2026

ORDER

PER: SUNIL KUMAR SINGH, JM.

This appeal has been preferred against the impugned order dated 30.10.2025 passed in appeal No CIT(A)-IV/KNP/10374/2013-14 by the Id. Commissioner of Income Tax(Appeals), Kanpur (hereinafter referred to as the "CIT(A) u/s. 250 of the Income Tax Act, 1961 (hereinafter referred to as the "Act") for the A.Y. 2014-15, wherein Id CIT(A) has sustained the penalty to the extent of Rs. 11,00,000/- as against the penalty of Rs. 39,01,450/- imposed u/s. 271(1)(c) of the Act, vide penalty order dated 29.09.2023

2. Briefly stating the facts are, that the assessment was completed u/s. 143 r.w.s 153A of the Act on 30.09.2021 for A.Y. 2014-15, assessing total

income at Rs. 1,77,71,141/- consequent upon the search and seizure action u/s 132(1) of the Act dated 19.07.2018 carried out in the R S Bullion and jewellers group of cases including the premises of assessee. The quantum appeal filed against the impugned order dated 30.09.2021 was dismissed by the Id CIT(A), vide order dated 28.06.2022 passed in appeal No CIT(A)-IV/KNP/10199/2013-14. Penalty proceedings were also initiated by the A.O. u/s. 271(1)(c) for the concealment of particulars of income and after taking assessee's response into consideration imposed penalty of Rs. 39,01,450/- due to concealment of income, vide penalty order dated 29.09.2023. Meantime, the tribunal, vide order dated 10.02.2025 passed in ITA 148/Agr/2022, restricted the impugned addition only to the extent of 11,00,000 only as undisclosed investment from house property.

3. Assessee preferred an appeal before Id CIT(A) against the penalty order dated 29.09.2023. Ld CIT(A), vide order dated 30.10.2025, restricted the said penalty to the extent of Rs. 11,00,000/-, deleting the penalty on the deleted additions.

4. Appellant assessee has preferred this second appeal against the impugned order dated 30.10.2025 on the following grounds:

“1. Because, in the facts and circumstances of the case, learned 'CIT (Appeals) has erred in sustaining the penalty u/s 271(1)(c) towards addition of Rs. 11,00,000 comprising of unexplained investment in house property.

2. Because, while sustaining the penalty, learned 'CIT (Appeals)' has erred in not appreciating that the 'appellant' had tendered explanation during penalty proceedings as well as during appellate proceedings and such explanation has

neither been found or held as 'no explanation' or 'false' or 'not substantiated', and the 'AO' could not legally dismiss the explanation by holding that: -

'The Assessee could bring nothing on record, which could prove that the Assessee has not concealed the particulars of his income, for the relevant assessment year. The grounds of deriving the undisclosed income of the Assessee have also been discussed, in detail, in the assessment order, for the relevant assessment year. The submission of the Assessee was found to unsatisfactory.'

3. Because learned 'CIT (Appeals) failed to appreciate that the penalty u/s 271(1)(c) could not be sustained merely because the addition was confirmed by appellate Tribunal, without appreciating the explanation submitted.

4. Because, and without prejudice to aforesaid, learned 'CIT (Appeals)' has erred and failed to appreciate that penalty under section 271(1)(c) could be levied based on 'tax' sought to be evaded under the 'Act' and not with reference to 'surcharge' or 'cess', as the case may be, levied under relevant Finance Act.

5. Because the order appealed against is illegal and bad in law.”

5. Perused the records and heard Id representative for the assessee and Id Sr DR for the appellant revenue.

6. The main point for determination under appeal is as to whether Id CIT(A) has erred in sustaining the penalty to the extent of Rs. 11,00,000/- imposed u/s. 271(1)(c) of the Act?

7. Ld representative for the assessee has submitted that the addition of Rs. 11,00,000/- was made on the basis of unsigned paper, which are available at Page No. 32 & 33 of the Appeal memo. The addition to the extent of Rs. 11,00,000/- was sustained merely on the presumption towards truthfulness of papers u/s. 292(c) of the Act. There is no other evidence to corroborate the payment of Rs. 11,00,000/- as mentioned in the above said

papers. Ld AR thus submits that no penalty could be imposed on the basis of these documents.

8. Ld Sr DR for the respondent revenue submits that this tribunal has already confirmed the addition to the extent of Rs. 11,00,000/- and supports the impugned order.

9. It is an admitted fact that this tribunal vide its order dated 10.02.2025 passed in ITA No. 148/Agr/2025, has already examined the issue on merit and the additions to the extent of Rs. 11,00,000/- has been upheld by observing that the assessee has actually paid an amount of Rs. 11,00,000/- and balance of 1.24 crore was “ to be paid” at the time of execution of the sale deed, which has been finalized in the relevant previous year. Nothing has been brought before us so as to suggest that any appeal was ever filed against the tribunal order dated 10.02.2025. The tribunal order has attained the finality as regards the addition of Rs. 11,00,000/- is sustained on account of undisclosed investment for house property. The arguments raised by Ld AR, thus do not fetch any benefit to the assessee. It is not the case of the assessee that there was any defect in the penalty notice issued during the penalty proceedings. Hence, we do not find any error of fact or law in the impugned order dated 30.10.2025 passed by Ld CIT(A). The aforesaid point is accordingly determined in negative against the appellant assessee and in favour of the revenue.

10. In the result, the assessee's appeal is dismissed.

Order pronounced on - 17.04.2026

**Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER**

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Dated: 17.04.2026

*Aamir Siddiqui, PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra