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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision : 15.12.2025*

\+ **ITA 741/2025 & CM APPL. 78386/2025 (condn of delay of 1100 days in re-filing)**

PR. COMMISSIONER OF INCOME TAX -CENTRAL -1 .....Appellant

Through: Mr Ruchir Bhatia, SSC and Mr Anant Mann, JSC.

versus

CHETAN GUPTA .....Respondent

Through: Mr Vaibhav Kulkarni and Ms Aabgina Chisti, Advocates.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

V. KAMESWAR RAO , J. (ORAL)

1. This appeal filed under Section 260A of the Income Tax Act, 1961 (the Act) challenges the order dated 28.06.2022 passed by the Income Tax Appellate Tribunal (ITAT) in ITA No.896/Del/2015 in respect of the Assessment Year (AY) 2004-05, whereby the ITAT has allowed three appeals filed by the respondent/Assessee in respect of AY 2002-03 to AY 2004-05.

2. The ITAT in paragraphs 3 to 8 has held as under:-

> *"3. The Assessing Officer made addition of Rs.xxxx/- to the total income on account of the unsecured loans received during the F.Y. 2003-04. Consequent to the*

addition, penalty u/s271(1)(c) has been levied by the AO.

4. We find that the page no. 10 below para 8.1, the Assessing Officer has also mentioned "that penalty proceedings u/s 271(1)(c)are being initiated separately."

5. We find that the para no . 1 of the penalty order reads as under:

> *"Penalty proceedings u/s 271(1)(c) of I .T . Act was initiated separately for concealment and failing to furnish true particulars o fits income. Show cause notice initiating penalty u/s 271(1)(c) of the Act was issued and send alongwith assessment order on 23.12.2011."*

6. We also find that the para no . 11 of the penalty order reads as under:"I hold the assessee in de fault in concealing the income of Rs.xxxxx."

7. On this issue, we are guided by the following judgments:

> *1) Karnataka High Court: CIT vs. Manjunatha Cotton and Ginning Factory: 359 ITR 565 held that notice under section 274 should specifically state the grounds mentioned in section 271(1)(c) of the Act, i.e., whether it is for concealment of income or for furnishing o f incorrect particulars of income. Sending printed form where all the grounds mentioned in section 271 are mentioned would not satisfy requirement of law.*
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> *.2) Bombay High Court: Mr . Mohd. Farhan A. Shaikh Vs ACIT Section 271(1)(c): Penalty-Concealment-Non-striking off of the irrelevant part while issuing notice u/s 271(1)(c) of the Income Tax Act, order is bad in law. Assessee must be informed of the ground of the penalty proceedings only through statutory notice. An omnibus notice suffers from the vice of vagueness.*
>
> *3) The Hon'ble jurisdictional Delhi High Court*

in the case of PCIT vs. Sahara India Life Insurance Co. Ltd. in ITA No.475 of 2019, reiterated that notice under section 274 should specifically state the grounds on which penalty was sought to be imposed as the assessee should know the grounds which he has to meet specifically.

4) The aforesaid principle has been reiterated in the in the case of CIT vs. SSA'S Emerald Meadows: 73 taxmann.com241 (Kar) [Revenue's SLP dismissed in 242 Taxman 180]

8. Hence , respectfully following the order of the Hon'ble Jurisdictional High Court, the penalty levied is hereby obliterated."

3. At the outset, Mr Ruchir Bhatia, learned SSC appearing for the appellant/Revenue states that this appeal is confined to the AY 2004-05 and he has no instructions with regard to the appeals pertaining to AY 2002-03 and AY 2003-04.

4. The issue which arose for the consideration of the ITAT was primarily, whether the penalty proceedings under Section 271 (1) (c) of the Act could be initiated without specifying clearly as to whether the same are being initiated for concealing the income by the assessee or furnishing inaccurate particulars of such income.

5. Mr Bhatia by drawing our attention to the page 40 of the paperbook submit that as there is specific finding of the Assessing Officer (AO) in paragraph 12 of the assessment order dated 23.12.2011, that the AO is satisfied that the respondent/Assessee has concealed his income with regard to the addition made, in that sense, it is apparent that the notice for penalty under Section 271 (1)(c) of the Act was issued primarily for that reason.

6. On the last date of hearing, Mr Bhatia sought time to place before this Court the copy of notice which was issued to the respondent/Assessee on 28.12.2011 under Section 271 (1) (c) of the Act. Today, he has produced the copy of notice dated 28.12.2011 and same reads as under:-

"NOTICE UNDER SECTION 274 READ WITH SECTION 271 OF THE INCOME TAX ACT, 1961

U/S 271AAA/271(1)(C)

Asstt. Commissioner of Income Tax
Central Circle-2, New Delhi

PAN AATPG9580E dated 28.12.2011

To,
Shri Chetan Gupta,
113, Answal Bhawan, Kasturba Gandhi Bldg
New Delhi-110001

Whereas in the course of proceedings before me for the assessment year 2004-05 and it appears to me that you:-

**have without reasonable cause failed to comply with a notice under Section 142(1) /143(3) of the Income Tax Act, 1961 dated...........*

**have concealed the particulars of your income or furnished inaccurate particulars of such income in terms of explanation 1,2,3,4 and 6/<u>Undisclosed income in the case of search</u>.*

You are hereby requested to appear before me at 4.30AM/PM on .... and show cause why an order imposing a penalty on you should not be made under Section 271 of the Income Tax Act, 1961. If you do not wish to avail yourself of this opportunity of being heard in person or through authorised representative, you may show cause in writing on or before the said date which will be considered before any such order is made under Section 271.

Assessing Officer

Asstt. Commissioner of Income Tax

Central Circle-2/New Delhi"

7. A perusal thereof would reveal that notice was not confined to the ground that the respondent/Assessee has concealed the income with respect to the addition made. It also incorporate '*or furnished inaccurate particulars of such income".* In other words, the notice does not state the specific ground on which notice has been issued nor a tick (✓) has been put on the specific ground on which the notice was required to be issued. If that be so, the ITAT is justified in relying upon the judgments as referred to in paragraph 7 of the impugned order, which we have reproduced above.

8. Hence, we are of the view, as no substantial question of law arises for consideration in this appeal, the appeal need to be dismissed. It is ordered accordingly.

9. Additionally, we find this appeal is accompanied with an application seeking condonation of delay of 1100 days in re-filing. Upon going through the averments made in the application, no justifiable ground has been raised to condone the delay of 1100 days. The appeal is dismissed on this ground as well.

V. KAMESWAR RAO, J

VINOD KUMAR, J

DECEMBER 15, 2025
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