IN THE INCOME TAX APPELLATE TRIBUNAL, 'E' BENCH MUMBAI

BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

BMA No.48 to 53/Mum/2025
(**Assessment Year :2016-17 to 2021-22**)

Addl. CIT Central Range-8, Mumbai	Vs.	Adijin Perfumes Private Limited 301A, Ashoka Enclave Chincholi Link Road Junction, Malad West – 400 064 Maharashtra
PAN/GIR No.AAMCA4112G		
(Appellant)	..	**(Respondent)**

Assessee by	None
Revenue by	Shri Hemanshu Joshi, Sr. DR
Date of Hearing	**26/02/2026**
Date of Pronouncement	**10/03/2026**

आदेश / O R D E R

PER BENCH:

All the aforesaid appeals have been filed by the Revenue against the separate impugned orders all dated 16.10.2025 passed by the Ld. Commissioner of Income Tax (Appeals)-51, Mumbai under section 15 of the Black Money (Undisclosed

Foreign Income and Assets) and Imposition of Tax Act, 2015 for the assessment years 2016-17 to 2021-22. Since the issues involved in all these appeals arise out of identical facts and revolve around the same legal controversy, they were heard together and are being disposed of by way of this consolidated order for the sake of convenience and brevity.

2. The Revenue in all these appeals is essentially aggrieved by the action of the Ld. CIT(A) in deleting the penalty of ₹10,00,000/- imposed by the Assessing Officer under section 43 of the Black Money Act. At the outset the learned Departmental Representative submitted that the controversy involved in the present appeals is exactly similar in parameters to the issue which had come up before this Bench in the appeal heard on 25.02.2026 and therefore the present appeals also arise on an identical factual matrix and involve the same legal issue.

3. From the perusal of the impugned orders and the material placed on record the brief factual backdrop giving rise to the present controversy is that the assessee company had made an investment in a foreign entity namely FM Overseas FZC located in Sharjah, UAE. Being a resident assessee the company was required to disclose details of such foreign financial asset in Schedule FA of the income tax return for the relevant assessment years. During the course of

proceedings the Assessing Officer noticed that although the assessee had made such foreign investment the details of the said investment were not furnished in Schedule FA of the return of income. According to the Assessing Officer the failure to disclose the foreign asset in the specific reporting schedule constituted a violation of the statutory reporting requirement contemplated under the Black Money Act and accordingly penalty proceedings under section 43 were initiated.

4. In response to the show cause notice issued by the Assessing Officer the assessee explained that the investment in the foreign entity was neither concealed nor kept outside the books of account. It was submitted that the said investment stood duly disclosed in the audited balance sheet under the head “Non-current Investments” and the same was also reflected in the return of income in Part A-BS under the head “Other Investments”. It was contended that the omission to report the investment in Schedule FA was merely a bona fide and inadvertent mistake without any intention to suppress the existence of the foreign asset. The assessee further submitted that the investment had been made in full compliance with the applicable RBI regulations governing overseas investments and that the transaction was duly accounted for and reflected in the financial statements forming part of the return of income. Reliance was also placed

upon judicial precedents including the decision of the Mumbai Tribunal in the case of Ocean Diving Centre Ltd. and the decision in Addl. CIT vs. Leena Gandhi Tiwari to contend that penalty under section 43 should not be imposed in a mechanical manner where the foreign asset stands disclosed in the financial statements and the omission pertains merely to the reporting format of the return.

5. The Assessing Officer however did not accept the explanation furnished by the assessee. According to him the requirement of reporting foreign assets in Schedule FA is a specific statutory obligation and disclosure of the investment in the balance sheet or in other parts of the return cannot substitute the mandatory disclosure in the prescribed schedule. He further observed that the assessee had answered “NO” to the relevant question in Part B-TTI of the return regarding holding of foreign assets and that Schedule FA had been left completely blank despite the admitted existence of the foreign investment. On this reasoning the Assessing Officer concluded that the assessee had failed to furnish information relating to a foreign asset in the return of income and accordingly levied penalty of ₹10,00,000/- for each of the assessment years under section 43 of the Black Money Act.

6. For the sake of completeness it would be appropriate to refer to the findings recorded by the Assessing Officer while levying the penalty under section 43 of the Black Money Act governing the controversy.

3.5 After careful consideration, the AO rejected the appellant's submissions. It was observed that under Section 43 of the BMA, the failure to furnish information regarding a foreign asset or financial interest in the income-tax return attracts a penalty of Rs. 10 lakh, irrespective of the intent or reason behind such failure. The AO emphasized that the provision is one of strict liability, and there is no exemption for cases involving bonafide belief or inadvertent error.

3.5 Upon verification of the appellant's ITR for the years, the AO noted that the appellant had answered "NO" to Question No. 14 of Part B–TTI, which specifically asks whether the taxpayer held any foreign asset or income during the year. Moreover, Schedule FA in the return was left completely blank, despite the appellant's admitted ownership of foreign shares. This, according to the AO, amounted to furnishing inaccurate particulars and a clear violation of Section 43.

3.6 The AO further held that disclosure of the investment in the balance sheet or other parts of the ITR cannot substitute for the mandatory disclosure in Schedule FA. Compliance with RBI norms, though required for foreign investment, does not provide immunity from the reporting requirements under the Black Money Act. The AO also distinguished the appellant's reliance on Ocean Diving Centre Ltd. as factually different, noting that the present case arose only after a search action in which the foreign asset came to light.

7. Aggrieved by the levy of penalty the assessee preferred an appeal before the Ld. CIT(A). After examining the record

and considering the submissions made by the assessee the Ld. CIT(A) deleted the penalty by placing reliance upon the decision of the coordinate bench of the Tribunal in the case of Ocean Diving Centre Ltd. and held that since the foreign investment was disclosed in the audited balance sheet and in the balance sheet schedule forming part of the return of income the omission to disclose the same in Schedule FA could at best be regarded as a technical or inadvertent lapse and not a case warranting penalty under section 43 of the Black Money Act.

8. We have heard the learned Departmental Representative and carefully perused the entire material placed before us including the impugned orders of the lower authorities as well as the statutory provisions governing the controversy. At the very threshold what emerges as an undisputed and foundational fact is that the investment made by the assessee in the foreign entity FM Overseas FZC stood duly recorded in the books of account and was reflected in the audited financial statements under the head Non-current Investments and the same was also embedded in the return of income through Part A-BS under the head Other Investments. Equally it is not the case of the Revenue that the said investment represented any unexplained or unaccounted foreign asset or that it emanated from undisclosed foreign income. The entire edifice of the Revenue's case is narrowly

chiselled to the proposition that the assessee did not furnish the particulars of the said foreign investment in Schedule FA of the return of income. It is in this backdrop that the controversy regarding the true amplitude and scope of section 43 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 arises for our consideration. A similar issue had come up for consideration before this Tribunal vide order dated 26.02.2026 in BMA No.43/Mum/2025 and other connected appeals, wherein the scope and import of section 43 of the Black Money Act had been examined in detail and the Tribunal had considered the circumstances in which the statutory trigger for levy of penalty under the said provision can be said to arise. In essence the Tribunal had analysed whether omission to disclose the foreign asset in a particular reporting schedule of the return, despite disclosure in the financial statements and other parts of the return itself, can be construed as a failure to furnish information in the return of income so as to attract the rigour of section 43 of the Act.

9. At this stage it would be appropriate to refer to the statutory provision contained in section 43 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

"If any person, being a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6 of

the Income-tax Act, 1961, fails to furnish in the return of income any information relating to an asset (including financial interest in any entity) located outside India, as required under the Act, he shall be liable to a penalty of ₹10,00,000/-."

10. A careful reading of the aforesaid provision reveals that the statutory trigger for levy of penalty is the failure to furnish in the return of income any information relating to a foreign asset or financial interest located outside India. The emphasis of the provision is therefore on the absence of information in the return of income itself. In the present case however the material on record clearly demonstrates that the investment in the foreign entity was disclosed in the audited balance sheet and was also reflected in the balance sheet schedule forming part of the return of income. Thus the return of income cannot be said to have been silent about the existence of the foreign asset. What emerges from the record is that the disclosure was made in one part of the return while the specific reporting schedule meant for foreign assets remained unfilled. In our considered opinion such a situation represents a lapse in the reporting format of the return rather than a complete failure to furnish information relating to the foreign asset in the return of income. Penal provisions even when civil in nature must operate strictly within the contours of the statutory language and where the information relating to the foreign asset is already embedded in the return of income through the audited financial statements it becomes

difficult to characterize the case as one where the assessee has failed to furnish any information in the return.

11. In this context it would be relevant to refer to the decision of the coordinate bench of the Tribunal which has examined an identical controversy and has held that where the foreign asset stands disclosed in the audited accounts and in another schedule of the return of income the omission to disclose the same in Schedule FA cannot by itself attract the rigour of penalty under section 43 of the Act. The relevant order of the Tribunal is reproduced hereunder.

3. The common issue involved in all these appeals is the levy of penalty of ₹10,00,000/- under section 43 of the Black Money Act on the ground that the assessee did not disclose the foreign asset in "Schedule FA (Details of Foreign Assets and Income from any source outside India)" in the returns of income for the impugned assessment years.

4. For the sake of convenience, we discuss the facts for A.Y. 2016-17, and our findings given therein shall apply mutatis mutandis to the other years under consideration, since identical facts and the same foundational controversy permeate each year leading to the impugned penalty under section 43.

5. Briefly stated, a search and seizure action under section 132 was carried out on 31.12.2021 in the Sawai&Bhoomi Group and, upon examination of the records, it was noticed that the assessee had made investments in FM Overseas FZC, located at SAIF Zone, Sharjah, UAE. The Ld. Assessing Officer observed that the assessee had invested ₹10,16,303/- (equivalent to AED 41,084) in shares of the said foreign entity on 16.05.2014 and, according to him, such foreign financial

asset was required to be disclosed in Schedule FA of the return of income for the relevant assessment years. Since the assessee did not fill up the said Schedule FA, the Ld. Assessing Officer initiated penalty proceedings under section 43 by issuing show cause notice dated 30.07.2024.

6. In response, the assessee raised certain contentions which can be summarised in the following manner:

(i) The assessee asserted that the foreign asset, namely investment in shares of FM Overseas FZC at Sharjah, UAE aggregating to INR 10,16,303/-, was already disclosed in its audited balance sheet, specifically under the group heading "Non-Current Investment". The thrust of the plea was that there was no concealment, no camouflage, and no attempt to keep the investment outside the financial statements; rather, the investment was embedded in the audited accounts forming part of the statutory record.

(ii) It was further asserted that, in the ITR for A.Y. 2016-17, the assessee had also reflected the said investment in Part A-BS under the head "Non-current investments" and the sub-head "Other Investments", thereby contending that the return did carry the information of the foreign investment, albeit not in the specific Schedule FA column. The emphasis was on the fact that the disclosure was in the return itself, and thus the informational footprint existed on the face of the return and its balance sheet particulars.

(iii) On the edifice of such disclosure, the assessee pleaded that it had substantially complied with the statutory requirement and therefore no penalty should be levied under section 43 of the Black Money Act, placing reliance on the decision of the Mumbai Tribunal in Ocean Diving Centre Ltd. &Anr. vs. CIT(A), reported at 2023(12) TMI 54, to contend that penalty under section 43 is not meant to punish mere technical or venial lapse when the foreign asset is otherwise disclosed in the return.

(iv) The assessee also stated that the investment was made in accordance with RBI regulations applicable to such foreign investments, suggesting that the transaction was not only accounted for but also regulated and compliant, thus lending credence to the plea of bona fides and transparency in the underlying investment.

(v) It was specifically pleaded that non-disclosure in Schedule FA was a bona fide mistake, inadvertent and not deliberate, and that such an omission—when the asset stood disclosed in audited accounts and in Part A-BS—should not be visited with the rigour of a fixed penalty.

(vi) It was further urged that there was no mala fide intent, nor any dishonest breach on the assessee's part; the omission, if any, was at best technical, and penalty is not warranted where conduct is not contumacious and where the information is otherwise available to the Department.

(vii) Reliance was also placed on the decision of the Mumbai Tribunal in Addl. CIT, Central Range-1, Mumbai vs. Leena Gandhi Tiwari, 2022(6) TMI 1191 (ITAT Mumbai), to reinforce the proposition that section 43 penalty should not be imposed in a mechanical manner where the surrounding facts show disclosure and bona fides.

7. The Ld. Assessing Officer, however, did not accept the aforesaid contentions and proceeded to levy penalty under section 43 by, in sum and substance, assigning the following reasons as emerging from the penalty order and the record:

(i) First, upon verification of the returns, the Assessing Officer noted that the assessee had answered "NO" to Question No. 14 of Part B-TTI, which, according to him, specifically asks whether the taxpayer held any foreign asset or income during the year. In his view, this response, coupled with a blank Schedule FA, evidenced non-reporting in the precise reporting architecture mandated for foreign assets.

(ii) Secondly, the Assessing Officer held that Schedule FA was left completely blank despite admitted ownership of foreign shares, and such omission amounted to furnishing inaccurate particulars / violation of section 43, since the statute contemplates furnishing of information regarding foreign assets in the return.

(iii) Thirdly, he reasoned that disclosure of the investment in the balance sheet or in other parts of the ITR cannot substitute the mandatory disclosure in Schedule FA; in other words, the statute and the ITR design prescribe a specific compartment for foreign assets, and failure to populate that compartment attracts the prescribed consequence.

(iv) Fourthly, the Assessing Officer observed that compliance with RBI norms, though relevant for permissibility of the investment, does not grant immunity from the reporting requirements under the Black Money Act; he also sought to distinguish the reliance on Ocean Diving Centre Ltd. by observing that, in the present case, the foreign asset came to light only after search, and therefore the case was not one of voluntary disclosure in the intended sense.

(v) Fifthly, he recorded that the assessee started disclosing the foreign investment in returns only after the 2021 search, particularly in the return for A.Y. 2022-23, and hence the earlier omission could not be treated as a mere inadvertence. He also noted that the Department had not accepted the decision in Leena Gandhi Tiwari and that an appeal before the Hon'ble Bombay High Court was pending.

(vi) Sixthly, the Assessing Officer placed reliance upon CBDT Circular No. 13/2015 dated 06.07.2015, particularly Question No. 18 thereof, to hold that even if foreign assets are fully explained and acquired from tax-paid income, failure to report them in Schedule FA attracts penalty of ₹10 lakhs under section 43.

7.1 On the aforesaid reasoning, he concluded that the assessee, being a resident, violated section 43 by failing to report the foreign investment in FM Overseas FZC in Schedule FA for A.Ys. 2016-17 to 2020-21 and accordingly imposed penalty of ₹10,00,000/- for each year.

8. The Ld. CIT(A) deleted the penalty after considering the findings of the Assessing Officer and the submissions of the assessee and by placing reliance, inter alia, upon the decision of the coordinate Bench in Ocean Diving Centre Ltd(supra). The observations of the Ld. CIT(A), is reproduced for ready hereunder:

"5.3 The findings of the AO and the submissions of the appellant have been considered. The appellant has furnished documentary evidence to show that the said foreign asset, namely FM Overseas FC at Sharjah amounting to INR 10,16,303/-has been duly disclosed under the section "Part A-BS - Balance Sheet as on 31st day of March, 2016" and under the head "Non- Current Investment". The appellant has also placed on record copy of balance sheet, wherein investment in the foreign entity is duly disclosed under Note 7 under the heading Non-Trade Investments. The appellant has relied upon the decision of ITAT, Mumbai in the case of Ocean Diving Centre Ltd Vs CIT(A)-51, Mumbai in BMA No. 22/Mum/2023 dated 30.08.2023 to argue that penalty u/s 43 of BMA could not be levied for mere technical or venial breach.

5.4 In this regard it is seen that the Hon'ble Mumbai ITAT in the case of Ocean Diving Centre Ltd v CIT (BMA No. 22/Mum/2023 order dated 30.08.2023), has held that once the concerned assessee has disclosed the investment made in the foreign asset in another schedule of the ITR, the assessee can be said to have directly or indirectly complied with the statutory provisions and the case of such an assessee cannot be said to fall under the rigorous provisions of section 43 of BMA. The relevant extracts are as under:

"10.2 In the instant case, the Assessee admittedly duly recorded and disclosed the investment in foreign entity in its audited balance-sheet and also furnished such information under "Non Current Investments" in Schedule para-A-BS in its return of income, hence we are in concurrence with the claim of the Assessee that the Assessee has directly or indirectly complied with the statutory provisions and therefore, the case of the Assessee does not fall under the rigorous

provisions of section 43 of the B.M. Act. No doubt the Schedule "FA" and BM Act, have been introduced and enacted for checking the economic offenders, tax evaders and for analyses of information qua foreign investment/income by using artificial intelligence and Schedule "FA" applicable specifically to the Assessee(s) whose accounts are not required to be audited or if audited but books of account not filed along with the return of income. However, in each and every case, the penalty as prescribed in section 43 of the Act, cannot be imposed."

5.5. Since in the present case, the appellant had made the disclosure in schedule Part-ABS of the ITR and also in the Balance Sheet, following the ratio of the aforesaid decision of the Hon'ble jurisdictional ITAT, in the case of Ocean Diving Centre Ltd (supra), the omission on the part of the appellant can at best be categorized as a bonafide inadvertent omission. Thus, it is held that it is not a fit case for levy of penalty u/s 43 of BMA. Therefore, the penalty of Rs. 10,00,000/- levied by the AO u/s of BMA in this case for AYs 2016-17 to 2020-21 is accordingly deleted and the grounds of appeal are allowed."

9. We have heard the Ld. DR and perused the material placed on record as well as the statutory provision of section 43 of the Black Money Act. At the very threshold, what emerges as undisputed fact is that the investment in FM Overseas FZC was disclosed in the audited balance sheet under the head "Non-current Investments" and was also reflected in the Income-tax Return in Part A-BS under "Other Investments". Equally, it is not the case of the Revenue that the investment was unaccounted in the books, or that it represented an unexplained accretion, or that it was sourced out of any undisclosed foreign income. The entire edifice of the Revenue's case is narrowly chiselled to the proposition that Schedule FA is a specific statutory reporting requirement and, therefore, non-furnishing of particulars therein, by itself and without more, automatically triggers the penalty contemplated under section 43. It is in this precise factual and legal setting that we are called upon to examine the true amplitude of section 43, the nature of the reporting obligation it creates, and the jurisdictional threshold that must be satisfied before a fixed penalty can be sustained.

10. At this stage, it is apposite to extract section 43 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, which reads as under:-

"If any person, being a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6 of the Income-tax Act, 1961, fails to furnish in the return of income any information relating to an asset (including financial interest in any entity) located outside India, as required under the Act, he shall be liable to a penalty of ₹10,00,000/-."

10.1. A careful reading of the provision shows that the statutory trigger is the failure "to furnish in the return of income any information relating to" a foreign asset or financial interest. Thus, the nucleus of the offence is not merely "non-filling of a particular schedule", but "non-furnishing of information in the return of income", as required under the Act. The section is undoubtedly enacted as a strict compliance measure to ensure that foreign assets and foreign financial interests are reported with specificity, enabling the tax administration to detect economic offenders and to profile cross-border holdings; yet, even within a strict regime, the first and most essential inquiry remains whether, on the facts of the case, the information relating to the foreign asset stood furnished in the return of income as a whole, even if not in the preferred slot or format. In other words, section 43 is meant to penalize the absence of information in the return, not to create a separate, self-contained penal universe for a mere misplacement of information within the return when the same is otherwise present and discoverable from the return itself. This distinction is not cosmetic; it is substantive, and it goes to the root of the jurisdictional fact which alone permits invocation of the penalty provision. Penal provisions, even when civil in nature, are to be construed with sobriety and precision, for a penalty is not a mere administrative fee; it is a statutory censure with a fixed monetary consequence and therefore before sustaining a penalty, it becomes incumbent to ascertain whether the return was truly silent about the foreign asset or whether the return carried the disclosure, though imperfectly arranged.

11. Tested on the anvil of the above statutory text, the facts here assume a decisive factor. The assessee furnished the return of income under section 139(1) and disclosed the foreign investment in the return, albeit in Part A-BS and in the audited balance sheet particulars forming part of the return disclosure set. It is correct that the disclosure was not made in Schedule FA. But it is equally correct that the foreign investment did not remain hidden from the return record; it was available in the balance sheet and in the ITR balance sheet schedule itself. Therefore, the controversy narrows down to whether section 43 can be invoked as if there was a complete failure to furnish "any information" in the return, when the information is in fact present, though not in Schedule FA. We also cannot be unmindful of the statutory design of penalty provisions under the Black Money Act. The provision uses the phrase "shall be liable to a penalty", which underscores seriousness; yet, the imposition of penalty still has to be rooted in a correct appreciation of the jurisdictional fact, namely, that there is a failure to furnish in the return of income any information relating to the foreign asset. Where the jurisdictional fact itself is absent because information is furnished, though not in the preferred schedule, the penalty cannot be sustained by treating a format lapse as equivalent to substantive non-reporting, for that would amount to substituting the statutory trigger with a different trigger not borne out from the language of the provision.

12. It is in this context that the reasoning of the coordinate Bench in Ocean Diving Centre Ltd., as noticed by the Ld. CIT(A) in the original draft, assumes significance, for the ratio proceeds on the premise that where the foreign asset is disclosed in another schedule of the return and in audited financials, the assessee can be said to have complied directly or indirectly, and the case does not fall under the rigorous sweep of section 43. In our view, this approach accords with the statutory language of section 43, because the section speaks of failure to furnish information "in the return of income", not "only in Schedule FA and nowhere else". In the present case, the Ld. AO has heavily relied on the fact that the

assessee answered "NO" in Part B-TTI, Question 14, and left Schedule FA blank. Undoubtedly, such response, if deliberate, may be a serious infraction. Yet, the surrounding record, as culled out in the draft, simultaneously shows disclosure of the same investment in Part A-BS and in audited balance sheet. This duality—disclosure on one page and omission on another—more readily aligns with an inadvertent reporting lapse rather than a designed suppression, particularly when the asset is not an unrecorded asset but an audited line item. Therefore, on the totality of facts, the omission in Schedule FA, in the face of disclosure elsewhere in the return architecture, bears the imprint of a technical lapse rather than the hallmark of "no information furnished", which is the jurisdictional foundation for section 43.

13. The Ld. DR relied upon CBDT Circular No. 13/2015 dated 06.07.2015, and specifically Question No. 18 thereof. The said Question and Answer, as extracted in the original draft, states in substance that if such assets are not reported in Schedule FA for A.Y. 2016-17 or any subsequent year by a resident (other than RNOR), he shall be liable to penalty of ₹10 lakhs under section 43. Having considered the above, we are unable to accept the Revenue's proposition that this FAQ/Circular mechanically seals the issue against the assessee irrespective of statutory text and irrespective of factual disclosure in the return. The reasons are multiple and are rooted in settled principles of statutory interpretation and the hierarchy of legal norms:

First, an administrative circular or FAQ is meant to clarify the Department's understanding and to aid implementation; it cannot enlarge the scope of a charging provision, nor can it create a penalty liability beyond what the statute clearly enacts. If the statute's condition precedent is failure to furnish information "in the return of income", then a circular cannot rewrite that condition as failure to furnish information "only in Schedule FA". To hold otherwise would be to permit delegated guidance to override parliamentary command, which is impermissible in law.

Secondly, even on its own terms, Question 18 contemplates a situation where foreign assets were not reported in Schedule FA "in the past". The answer clarifies that such assets, if fully explained, are not to be declared under Chapter VI, but carries a rider about penalty for non-reporting in Schedule FA from A.Y. 2016-17 onwards. This is a general clarification intended to warn taxpayers that, going forward, Schedule FA reporting is mandatory. However, it does not address, much less decide, the nuanced factual situation where the taxpayer has disclosed the foreign investment in the return itself in Part A-BS and audited balance sheet schedules and yet has failed to populate Schedule FA. In such a case, the statutory question still remains whether there is failure to furnish "any information" in the return, and that question must be answered on the facts and statutory language, not by an FAQ's broad cautionary tone.

Thirdly, section 43 is undoubtedly a deterrent provision, but it does not operate in a vacuum divorced from the reality of return-filing mechanics. The return is not a single line; it is a compilation of schedules, parts, balance sheet disclosures, and annexures as statutorily prescribed. If information is present in one statutorily prescribed part of that very return, it becomes difficult to characterize the case as one where information was not furnished "in the return of income" at all. The statute targets non-furnishing of information; it does not criminalize, by a fixed penalty, the mere misplacement of information when the information is otherwise furnished, unless the statute expressly so declares.

Fourthly, the Department's reliance on the circular also overlooks an important interpretive constraint: a circular may be binding on the Department for the benefit of the assessee, but it cannot be used as a sword to impose a burden not supported by the statute. Here, if the circular is read to mean that, notwithstanding disclosure in Part A-BS and audited financials, penalty must be levied solely because Schedule FA was blank, then the circular is being used to impose a stricter condition than the statutory text, which is not permissible.

14. Hence, Question 18 cannot be read as overruling the substantive provision; at the highest, it underscores the importance of Schedule FA compliance, but it cannot transmute a case of disclosure-in-return-but-not-in-FA into a case of non-disclosure-in-return.

15. Thus, on an overall conspectus, where the foreign investment is admittedly recorded in the audited balance sheet under "Non-current Investments" and reflected in the ITR in Part A-BS under "Other Investments", where the transaction is not alleged to be unexplained or unaccounted, where the controversy rests on non-filling of Schedule FA and the Part B-TTI response, and where the coordinate Bench has, on similar facts, held that penalty under section 43 is not attracted when the investment is otherwise disclosed in another schedule of the return, we hold that the Ld. CIT(A) was justified in deleting the penalty. We accordingly decline to interfere with the impugned order.

16. In the result, the appeals filed by the Revenue are dismissed.

12. Respectfully following the aforesaid decision of the coordinate bench and applying the same principle to the facts of the present case we find ourselves in agreement with the conclusion arrived at by the Ld. CIT(A). The disclosure of the foreign investment in the audited balance sheet and in the balance sheet schedule of the return demonstrates that the existence of the asset was not suppressed or withheld from the Department. The omission to populate Schedule FA though certainly a procedural lapse cannot be elevated to the level of a complete failure to furnish information in the return of income so as to justify the levy of penalty under section 43. The object of the Black Money Act is undoubtedly to curb the

menace of undisclosed foreign assets and income and to ensure strict compliance with reporting obligations. However where the foreign asset is already disclosed in the financial statements and the return of income itself the case cannot be equated with one involving concealment or suppression of foreign holdings. In such circumstances the omission to disclose the asset in a particular schedule of the return bears the character of a technical or inadvertent lapse rather than a contumacious breach warranting penal consequences.

13. Accordingly we find no infirmity in the order of the Ld. CIT(A) deleting the penalty of ₹10,00,000/- levied under section 43 of the Black Money Act and the order of the Ld. CIT(A) is therefore affirmed. Since identical facts permeate all the assessment years involved in the present batch of appeals the aforesaid reasoning shall apply mutatis mutandis to all the appeals before us.

14. In the result all the appeals filed by the Revenue stand dismissed.

Order pronounced on 10th March, 2026.

Sd/-	**Sd/-**
(GIRISH AGRAWAL)	**(AMIT SHUKLA)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Mumbai; Dated 10/03/2026

KARUNA, *sr.ps*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar)
ITAT, Mumbai