

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 1913/Bang/2025
Assessment Year : 2016-17

Smt. Subbalakshmi Kurada, 39/2, "B" Block, 3 rd Floor, T Dasarahalli, 8 th Mile, Hesaraghatta Cross, Tumkur Road, Bangalore – 560 057. PAN: APBPK4083R	Vs.	The Deputy Commissioner of Income Tax, Circle – 3[1][2], Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri V. Narendra Sharma, Advocate
Revenue by	:	Shri Subramanian .S, JCIT-DR

Date of Hearing	:	20-01-2026
Date of Pronouncement	:	15-04-2026

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 30/07/2025 in respect of the A.Y. 2016-17 and raised the following grounds:

“1. The orders of the authorities below in so far as they are against the appellant are opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.

2. The order levying penalty u/s.271[1][c] of the Act, is bad in law in as much as, the learned AO has neither reached any satisfaction nor has such satisfaction been recorded in

the assessment order and consequently, the very initiation of proceedings u/s.271[1][c] of the Act, is not in accordance with the requirements of Section 271[1] of the Act and consequently, the order of penalty founded on the invalid initiation of penalty proceedings is liable to be cancelled.

3. Without prejudice to the above, the order of penalty passed u/s 271[1][c] of the Act is bad in law as the notice issued under section 274 rws 271 of the Act is defective as the same has been issued for both concealment of income and furnishing of inaccurate particulars of income and thus, the entire proceedings are bad in law and hence, the order passed deserves to be cancelled.

4. Without prejudice to the above, the learned CIT[A] failed to appreciate that the appellant has neither concealed any income nor furnished inaccurate particulars of income to warrant levy of penalty and therefore, the penalty levied u/s.271[1][c] of the Act requires to be cancelled.

5. The learned CIT[A] is not justified in upholding the levy of penalty of Rs. 6,26,410/- u/s 271[1][c] of the Act imposed by the learned A.O., who had not applied his mind to the submissions made by the appellant vide letter dated 19/01/2019 and therefore, the penalty order passed was bad in law under the facts and in the circumstances of the appellant's case.

6. The learned CIT[A] ought to have appreciated that no penalty u/s 271[1][c] of the Act could be levied in respect of the addition of Rs 20,27,218/- that was made on account of change in the head of income assessed as the same cannot be considered as furnishing of inaccurate particulars of income under the facts and in the circumstances of the appellant's case.

7. For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and Justice rendered and the appellant may be awarded costs in prosecuting the appeal and also order for the refund of the institution fees as part of the costs.”

2. The brief facts of the case are that the assessee is an individual and earned income from the house property as well as the interest income. The assessee filed his return of income which was selected for limited scrutiny to examine the four issues. Notices u/s. 143(2) as well as u/s. 142 were

issued to the assessee. The assessee also filed her submissions. The AO after verifying the submissions made by the assessee alleged that the assessee had declared a lesser rental income when compared with the statement in form 26AS. The AO observed that the assessee had bifurcated the rental income into two, one showing the rental income and the another showing the hire charges collected for the amenities provided. The AO not accepted the said bifurcation of the rent into two parts and clubbed the rental income as well as monthly hire charges for the amenities as rental income. Similarly, the assessee had shown the long term capital gains while selling her property which was subsequently reinvested and deduction u/s. 54 was claimed. The AO had not granted the said deduction since the assessee had reinvested the capital gains along with her son. The AO observed that the assessee was the sole owner of the property sold and therefore the reinvestment jointly with her son would not entitle her for deduction u/s. 54 of the Act and on that score 50% share of her son was made addition and assessment has been completed. As against the said order, the assessee filed an appeal before the Ld.CIT(A)-3, Bengaluru. The Ld.CIT(A) had confirmed the addition of the monthly hire charges but allowed the deduction for the interest on borrowings from the income from house property. The Ld.CIT(A) also enhanced the deduction allowable u/s. 54 of the Act but confirmed the disentitlement of deduction at 50% of the cost of the reinvestment since the reinvestment was made along with the assessee's son.

3. The said order was challenged before this Tribunal and the Tribunal had also accepted that the deduction u/s. 54 has to be granted. Thereafter the penalty proceedings u/s. 271(1)(c) was initiated for furnishing the inaccurate particulars. The assessee filed their detailed reply and submitted that the entire rental income was declared in the return including the hire charges received on amenities but the hire charges received on amenities were provided under the head income from business. Insofar as the long term capital gains, the assessee submitted that all the details were furnished and the said capital gain was reinvested in another house

property by the assessee along with her son and therefore the denial of deduction u/s. 54 was not justified. The assessee therefore submitted that there was a dispute about the classification of income and denial of full exemption on the capital gains and therefore submitted that the same would not be a reason for imposing penalty u/s. 271(1)(c) of the Act. Subsequently, a show cause notice was issued to the authorised representative's email ID but the said notice was not noticed by the Ld.AR and therefore not filed any response to the said notice and on that basis, the AO had confirmed the penalty u/s. 271(1)(c) of the Act. The said order was challenged by the assessee before the Ld.CIT(A) and submitted that there is no concealment of income as well as furnishing of inaccurate particulars and therefore the levy of penalty u/s. 271(1)(c) of the Act is not warranted. The Ld.CIT(A) had also not accepted the said submissions and confirmed the penalty levied u/s. 271(1)(c) of the Act.

4. As against the said order, the present appeal has been filed before this Tribunal.

5. At the time of hearing, the Ld.AR submitted that there is no concealment of any income and furnishing of inaccurate particulars of income to attract the levy of penalty u/s. 271(1)(c) of the Act. The Ld.AR further submitted that the assessee had furnished the details of the reinvestment made by her by utilising the capital gains while filing the return of income and the AO had not accepted the said reinvestment by stating that the assessee is the sole owner of the property sold by her and therefore she has to reinvest the capital gains in her name only and not along with her son. On that score, the deduction claimed u/s. 54 is restricted to the extent of her son's share and the said amount was added to the income of the assessee and assessment has been completed. The said order was challenged by the assessee before the Ld.CIT(A) and later on before this Tribunal.

6. The Tribunal vide its order dated 08/05/2020 in ITA No. 2483/Bang/2019 had accepted the submissions made by the assessee and allowed the full deduction u/s. 54 of the Act which was denied by the AO. Therefore, the computation made by the assessee was accepted by the Tribunal and therefore there is no question of concealment of any income nor furnishing of inaccurate particulars of income. When there is no concealment of any income nor furnishing of inaccurate particulars of income, automatically the penalty u/s. 271(1)(c) could not be imposed. Therefore on merits, the assessee is entitled for not levying the penalty u/s. 271(1)(c) of the Act.

7. Further, the AO had assessed the monthly hire charges for the amenities under the head income from house property which was claimed as income from business by the assessee. Therefore, there is no concealment of any income nor furnishing of inaccurate particulars of income by the assessee but only the claim was made under a different head of income and that should not be a reason for imposing penalty u/s. 271(1)(c) of the Act. Similarly, the capital gains was reinvested both in the name of the assessee as well as in the name of her son and the said facts were also furnished to the department and therefore there is no question of any concealment of income nor furnishing of any inaccurate particulars of income. Even on this score also, the penalty could not be imposed u/s. 271(1)(c) of the Act. We have also considered the judgment of the Hon'ble Jurisdictional High Court reported in (2013) 359 ITR 565 (Karnataka) in the case of CIT vs. Manjunatha Cotton Ginning Factory which was relied on by the assessee. In the said judgment, it was held that the acceptance of the assessee for the addition is not a proof of concealment of income. We have also perused the judgment of the Hon'ble Supreme Court reported in 322 ITR 158 in the case of CIT vs. Reliance Petroproducts Pvt. Ltd.

8. We have also perused the judgment of the Hon'ble Supreme Court cited by the assessee supra and in the said judgment, it was held as follows:

“A mere making of a claim, which is not sustainable in law, by itself, will not amount to furnishing inaccurate particulars regarding the income of the assessee. Such claim made in the Return cannot amount to the inaccurate particulars.”

9. The above said judgments are applicable to the facts of the present case and therefore we are allowing the appeal filed by the assessee by deleting the penalty u/s. 271(1)(c) of the Act.

10. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 15th April, 2026.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 15th April, 2026.
/MS /

Copy to:

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|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore