

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“D” BENCH, AHMEDABAD**

**BEFORE MS. SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER  
AND  
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA Nos. 1121,1122,1123,1124 & 1125/AHD/2025  
Assessment Years: 2011-12,2012-13,2013-14,2014-15 & 2015-16**

Axis Bank Limited, Trishul, 3 <sup>rd</sup> Floor Opp. Samtheshwar Mahadev Near Law Garden, Ellisbridge, Ahmedabad – 380006 <b>[PAN –AAACU2414K]</b>	Vs.	Assistant Commissioner of Income Tax, Circle 1(1)(1), Ahmedabad - 380015
(Appellant)		(Respondent)
Assessee by	Shri Tushar Hemani, Sr. Advocate & Shri Kushal Fofaria, ARs	
Revenue by	Shri Sher Singh, CIT. DR	
Date of Hearing	08.01.2026	
Date of Pronouncement	16.01.2026	

**ORDER**

**PER NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER:**

These five appeals are filed by the assessee against separate orders of National Faceless Appeal Centre(NFAC), Delhi [hereinafter referred to as ‘CIT(A)’], all dated 06.03.2025 for the Assessment Years (A.Y.) 2011-12 to 2015-16 respectively, in the proceedings u/s 271(1)(c) of the Income Tax Act.

2. As the facts involved in the five appeals were common and the grounds raised by the assessee were also identical, all the matters were heard together and are being disposed off vide this common order for

the sake of convenience. We will take the appeal in ITA No. 1121/Ahd/2025 for A.Y 2011-12 as the lead case.

**ITA No. 1121/Ahd/2025: A.Y 2011-12**

3. The brief facts of the case are that the assessee had filed its return of income for AY 2011-12 on 09.09.2011 declaring total income of Rs.58,30,66,59,722/-. The assessment was completed u/s 143(3) on 21.11.2013 at total income of Rs.61,14,55,65,633/-. In the course of assessment, the A.O had disallowed the claim for deduction of Rs.93,04,00,000/-, made by the assessee on account of revision of lease operating expense. The A.O had also initiated penalty proceeding u/s 271(1)(c) of the Act in respect of this addition, for furnishing inaccurate particulars of the income. Subsequently a penalty order u/s 271(1)(c) of the Act was passed on 29.06.2022 and penalty of Rs.30,90,55,620/- was imposed in respect of addition of Rs.93.04 crores on account of disallowance of lease rent expense, which was upheld by the Tribunal in the quantum addition.

4. Aggrieved with the penalty order of the AO, the assessee had filed an appeal before the First Appellate Authority which was decided by the Ld. CIT(A) vide the impugned order and the appeal of the assessee was dismissed.

5. Now the assessee is second appeal before us. The assessee has raised the following grounds of appeal:

**1. Levy of penalty under section 271(1)(c) of the Income Tax Act, 1961 ('Act') in respect of furnishing inaccurate particulars of income on account of lease operating expenses (Tax effect-Rs. 30.90,55,620)**

1.1. *The learned AO and the Hon'ble CIT(A) erred in levying penalty of Rs. 30.90.55,620 u/s 271(1)(c) of the Income-tax Act, 1961 ('the Act') in respect of furnishing inaccurate particulars of income on account of lease operating expenses without appreciating the fact that the claim of lease rentals made by the Appellant was in line with the expenditure recorded in the books on account as per method of accounting prescribed under Accounting Standard 19.*

1.2. *The learned AO and the Hon'ble CIT(A) erred in levying penalty without considering the fact that the Appellant had not furnished any inaccurate particulars of income as the change in accounting policy with respect to recording of lease expense had been fully disclosed in the Annual Report of the year in which change was recorded.*

1.3. *The learned AO and the Hon'ble CIT(A) failed to consider that the claim was made by the Appellant after relying on various decisions of judicial authorities wherein it has been held that method of accounting as per the Accounting Standards prescribed by the ICAI or method of accounting regularly followed by the taxpayer should be allowed for income-tax purposes when there is no express bar in the income tax act.*

1.4. *The learned AO and the Hon'ble CIT(A) failed to consider that based on the decisions on which the Appellant has relied upon, even Delhi Bench of Tribunal in case of Claridge Hotels Pvt. Ltd. V. DCIT (ITA No. 2443/Del/2019) has allowed the assessee's claim of uniform deduction of lease rent expense. Also, the ICAI publications-Guidance notes reflects the best practices adopted by the accountants throughout the world.*

1.5. *The learned AO and the Hon'ble CIT(A) erred in levying penalty of Rs. 30.90.55,620 u/s 271(1)(c) of the Income-tax Act, 1961 ('the Act') in respect of furnishing jegerate particulars of income on account of lease operating expenses without appreciating the fact that the addition made in the order is merely on account of difference of opinion in respect of accounting of lease operating expense. It is supported by the plethora of judicial precedents that mere difference of opinion is not a fit case to levy penalty.*

1.6. *The learned AO and the Hon'ble CII(A) erred in levying penalty without considering the fact that the entire exercise of amortization of lease expense over the lease period is tax neutral, which was even accepted by the Hon'ble*

Ahmedabad Bench of Tribunal in the order dealing with merits on the underlying issue.

1.7. The learned AO and Hon'ble CIT(A) erred in relying on the decision in case of Dharamendra Textiles Processors [306 ITR 277] (2008) (SC) without appreciating the fact that the same is not applicable to the instant case as the Appellant had not furnished any inaccurate particulars of income and it has relied upon judicial precedents and the accounting standards applicable to the Bank to claim the lease rent expense on SLM basis

1.8. The Hon'ble CIT(A) erred in law and on facts by placing reliance on certain judicial precedents that are not applicable and does not have any nexus with the issues and facts under consideration for the Bank in the present appellate proceedings.

**2. Penalty order barred by limitation in accordance with section 275 of the Act. (Tax effect - NIL)**

2.1. The learned AO has erred in passing the order after the due date as per section 275(1)(a) of the Act. The Appellant had received the order of Tribunal on 24 November 2021. and it believes that the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner would have received the said order at around same lime. Considering the same, the time limit for passing penalty order as per section 275(1)(a) had been expired on 31 May 2022 However, penalty order had been received by the Appellant on 29 June 2022 Despite this fact being highlighted in the submission made by the Appellant, the learned AO has not provided any rationale for passing order on 29 June 2022.

2.2. Hon'ble CIT(A) erred in passing an arbitrary order in respect of above ground of appeal during the appellate proceedings. Hon'ble CIT(A) dismissed the above ground merely on account of no response received from learned AO for the request letters made by Hon'ble CIT(A) to furnish proof of date of receipt of Hon'ble ITAT's order in the office of the Principal Commissioner of Income Tax / Chief Commissioner of Income Tax ('PCIT/CCIT) Hon'ble CIT(A) has erred in providing benefit of doubt to the learned AO in this regard and passed the order hurriedly without waiting for confirmation from the AO. The Appellant can't be deprived of justice for the inadequacy/deficiency on part of learned AO to provide required information to Hon'ble CIT(A).

**3. Non jurisdiction to pass penalty order (Tax effect-NIL)**

3.1. *The learned AO has erred in conducting the penalty proceedings without any jurisdiction and not providing justification as to why penalty proceedings have not been conducted under the Faceless Penalty Scheme 2021 despite specifically being highlighted by the Appellant in the submission made before the learned AO.*

3.2. *The Hon'ble CIT(A) while passing order under section 250 of the Act has erred in not adjudicating on the above ground of appeal raised with respect to non-jurisdiction of learned jurisdictional AO to conduct penalty proceedings. Thus, the impugned order passed by Hon'ble CIT(A) is palpably arbitrary, unjustifiable and in gross violation of law.*

*The Appellant craves leave to add to amend, alter, delete and/or modify the above grounds of appeal on or before the final date of hearing.*

### **Submissions of the Assessee**

6. Shri Tushar Hemani, Id. Sr. Advocate appearing for the assessee has taken us through the facts of the case. He explained that during the A.Y. 2011-12 the assessee had changed its accounting policy with respect to lease rental expense in view of Accounting Standard 19 (AS-19) and started applying Straight Line Method (SLM), for recognition of lease rent expense over the lease tenure instead of recognition on actual payment basis. This has resulted in incremental lease rent expense of Rs. 93.04 crores during the year under consideration. The Id. Senior Counsel explained that the assessee was earlier claiming lease expense on the basis of actual payment. However, the lease agreements had a clause for increase of lease rent over a period of time during the life of the lease. In order to give effect to such increase equally, AS-19 mandated that lease rental should be claimed on SLM basis over the life of the lease as the underlying resource is used for the entire life of the lease equally. In order to give effect to this mandate of AS-19, the assessee changed the method of claiming lease expense on

SLM basis, which resulted in the assessee claiming additional sum of Rs. 93.04 crores during the year. The Ld. Sr. Counsel explained that this changed method was followed in the subsequent years as well, which has resulted in reversal of lease rent in the later years and that a chart to this fact was given at page 48 of the assessment order. In the course of assessment, the AO had disallowed this additional claim of Rs. 93.04 Crores on account of lease rental on the ground that this accounting policy does not reflect true picture of income under the Act, which was confirmed by Ld. CIT as well as by the Tribunal. Thereafter the AO had imposed the penalty u/s 271(1)(c) of the Act for furnishing the wrong particulars of income by the assessee.

7. The Ld. Sr. Counsel submitted, at the outset, that in the notice u/s 274 r.w.s. 271(1)(c) of the Act, the AO did not clearly specify the limb under which penalty proceeding was initiated, i.e. whether it was for 'concealment of income' or for 'furnishing inaccurate particulars of income'. He submitted that in the absence of the clear specification in the notice the penalty order cannot be sustained. He relied upon the following decisions in support of this contention.

- *PCIT v. Quippo Telecom Infrastructure P. Ltd. – 175 taxmann.com 503(Delhi)*
- *CIT v. State Bank of India – SLP 29581 of 2018 (SLP dismissed);*
- *CIT v. State Bank of Mysore – ITA 129/2016 (Karnataka);*
- *CIT v. SSA's Emerald Meadows – 73 taxmann.com 248(SC).*

8. On merits, the Id. Senior counsel submitted that levy of penalty with reference to disallowance of lease rental expense was not justified. He explained that though the quantum addition was confirmed by the Id.

Tribunal, it was observed in the order of the Tribunal that there will be no impact on revenue even if the assessee claims the lease rent expense on SLM basis as per AS-19, since the lease rent claim over the entire lease period will be same. He further submitted that the Accounting Standards issued by ICAI was mandatory to be followed by the assessee while preparing its book of accounts. According to the Id. Senior counsel the method of accounting followed as per the Accounting Standards prescribed by ICAI was a valid method for computing income and the same cannot be disregarded by the revenue. In this regard he placed reliance on the following decisions:

(i) *CIT Vs. Virtual Soft Systems Limited 404 ITR 409 (SC)*,

(ii) *CIT Vs. Virtual Soft Systems limited 341 ITR 593 (Delhi)*.

9. The Id Senior Counsel further submitted that the assessee had made due disclosure in its financial statement regarding the change in the accounting policy in respect of lease operating expense. Therefore, there cannot be any case of furnishing of inaccurate particulars of income by the assessee. He submitted that the claim of the assessee was in accordance with the mandatory Accounting Standard. The Id. Senior Counsel emphasised that on identical facts the incremental lease rent expense on SLM basis, in accordance with AS19, was allowed by the Coordinate Benches of the Tribunal in the following cases.

i. *Bata India Ltd. vs. DCIT 11 taxmann.com 453 (Kol-Trib.)*

ii. *HDFC Securities Ltd. vs. CIT(A) 115 ITR(T) 179 (Mum- Trib.)*

10. According to Id. Senior counsel, in view of the divergent decisions on this issue, the view adopted by the assessee was a plausible view and penalty cannot be levied merely for the diverse view of the

assessee. The Id. Senior counsel submitted that mere rejection of a claim cannot be a ground for levy of penalty. In this respect he relied upon the decision of the Supreme court in the case of *CIT Vs. Reliance Petroproducts P Ltd. (322 ITR 156) (SC)*. He submitted that the quantum proceeding and the penalty proceedings are different and merely because the addition has been confirmed in appeal, the same cannot be a ground for levy of penalty u/s 271(1)(c) of the Act.

**Submissions of the Revenue:**

11. Per contra, Shri. Sher Singh, the Id. Sr. DR submitted that the AO had initiated the penalty proceeding u/s 271(1)(c) in the assessment order for furnishing of inaccurate particulars of income. Further, the penalty u/s 271(1)(c) was also imposed for this reason only. Thus it was evident that the penalty proceeding was initiated as well as levied for furnishing of inaccurate particulars of income and this fact was never under dispute. Therefore, merely because the particular limb was not specified in the notice u/s 274 r.w.s 271(1)(c) of the Act, it cannot be considered adversely. The Id. Sr. DR submitted that in the present case there was no divergence of opinion about the limb under which the penalty u/s 271(1)(c) of the Act was initiated and levied. On merits, the Id. CIT-DR submitted that AS-19 was not notified by the Central Government for tax purpose. He explained that the assessee was well within its right to compute income in accordance with AS-19 under the provisions of Companies Act. However, while computing the income for the purpose of Income-tax, the assessee should not have worked out the income on the basis of AS-19 as the said Accounting Standard was not notified. The Id. CIT-DR submitted that by disclosing income on the basis of AS-19 in the income-tax return the assessee had certainly

furnished inaccurate particulars of its income. He, therefore, strongly supported the order of Assessing Officer and the Id. CIT(A) imposing the penalty u/s 271(1)(c) of the Act.

**Our findings and decision:**

12. We have carefully considered the rival submissions. The basic facts of the case are not under dispute. The assessee had claimed additional deduction of Rs.93.04 crores on account of change in the method of claiming the lease rental expense on SLM basis. It is found that this fact was duly reported by the Auditor in the audited accounts at para 4.2 of Schedule-17 regarding “*Significant accounting policies for the year ended 31<sup>st</sup> March 2011*”, which reads as under:

**4.2 Change in estimate of lease term for operating leases**

*During the current year, the Bank has revised its estimate of lease term in the case of assets taken on operating leases to include the secondary period of the lease involving further payment of lease rentals based on continuation of the lease at the option of the Bank, as against the primary lease period as considered hitherto. As a result the operating expenses for the year are higher by Rs.93.04 crores with a consequent reduction to the profit before tax.*

13. The quantum addition made by the Revenue in respect of disallowance of lease operating expense of Rs.93.04 crores was confirmed by the Coordinate Bench of this Tribunal in *ITA No. 311/Ahd/2016 & Others dated 28.10.2021*, a copy of which has been brought on record. The Tribunal had held that the deduction claimed by the assessee on the basis of incremental clause in the lease deed over the lease period, can't be treated as accrued liability. As per the lease agreement, the liability for the assessee for payments of increase in rent was arising in later years only. Therefore, the claim of Rs.93.04 crores made by the assessee was not treated as a accrued liability and the

addition was confirmed. At the same time, the Tribunal had made the following observation in the said order:

*41.4 We are also conscious to the fact that there will not be any impact on the Revenue if the assessee claims the deduction of the lease rental on straight-line method. It is for the reason that the assessee in the initial years will claim the deduction at the higher value but at the same time it will claim the deduction of the lease rent at the lesser value in the later years. Thus, the entire exercise over the lease period is tax neutral. In other words the liability for the tax under the Act of the initial periods shall be deferred to the later years. But in our considered view this will distort the pictures of the principles of income recognition under the income tax Act. The assessee in the initial year will claim higher amount of lease rent whereas the recipient will claim lesser amount of lease income. Likewise, the assessee will deduct the TDS on the higher amount which will not match with the income of the assessee recipient disclosed in the return of income*

*41.5 Admittedly, the accounting standard issued by the ICAI are mandatory to be followed by the assessee under the Companies Act. But the question arises, such accounting standards should also be followed while working out the income under the provisions of the income tax Act. So far, the Income Tax Act has not notified the accounting standard 19 issued by the ICAI, though mandatory for the assessee to follow while preparing its books of accounts, but this is not the same under the Income Tax Act. Hence the ground of appeal of the assessee is dismissed.”*

14. The Tribunal had given a finding that there will be no impact on revenue, even if the assessee claimed the lease rental expense on SLM basis as per AS-19, as the lease rent claimed over the entire lease period will be the same. Though the addition made in respect of lease rental expense on SLM basis was confirmed by the Tribunal in the assessee's case; the assessee has brought on record decisions of Co-ordinate Bench of other Tribunals wherein the identical claim was allowed to the assessee. In the case of *Bata India limited (supra)*, the *Co-ordinate Bench of Kolkata Tribunal* had upheld the claim of additional lease rental liability claimed in accordance with the AS-19 on the ground that straight-lining of lease rentals reflected a better and accurate picture of true commercial profits and such claim was not contrary to specific provisions in the Act. Similarly, the *Co-ordinate Bench of Mumbai*

Tribunal in the case of *HDFC Securities Limited (Supra)* had held as under:

“17. On perusal of the above it emerges that, though the Revenue had invited the attention of the Tribunal towards the provisions contained in Section 30 of the Act, the Tribunal decided identical issue in favour of Assessee and confirmed the order passed by the first appellate authority deleting the disallowance made by the Assessing Officer in respect of the provision for lease rent created as per AS-19. On perusal of computation sheet furnished by the Assessee in respect of 127 operational leases [placed at pages 136 to 139 of the paper-book], we find that, both, upward as well as downward adjustment of lease rental expenses has been made for the relevant previous year. We note that the Assessee has been following this method of accounting for operational lease expenses on a consistent basis over the years. We also note that the aforesaid decision of the Tribunal in the case of the Assessee for the Assessment Year 2010-11 which has also been followed while deciding cross-appeals for the Assessment Year 2011-12 (IT Appeal Nos. 738 & 716 (Mum.) of 20165, dated 16-04-2018). Therefore, keeping in view of the aforesaid facts and circumstances as well as the above decisions of the Tribunal in the case of the Assessee for the Assessment years 2010-11 and 2011-12, we delete the disallowance of INR 64,39,586/- made by the Assessing Officer in respect of provision for operational lease rentals. Ground No. III raised by the Assessee is allowed”.

15. It is thus found that there were two opinions on the allowability of incremental lease rental expense on SLM basis in accordance with AS-19. In the present case, the assessee had adopted one of the plausible view and, therefore, the claim as made by the assessee cannot be held as furnishing of inaccurate particulars of the income. It has been held by Hon'ble Supreme Court in the case of *Reliance Petroproducts P. Ltd. (189 Taxman 322) (SC)*, that merely because the claim of the assessee was rejected by the revenue, that by itself could not attract penalty under section 271(1)(c) of the Act. The assessee had furnished plausible explanation for the claim as made by it and the said explanation was not found to be false. The parameters for judging justification for addition in the assessment proceeding are different from the penalty imposed on account of concealment of income or filing inaccurate particulars of income. Merely because the addition was confirmed in appeal, the same

cannot be the sole basis to come to a conclusion that assessee had concealed income or had furnished inaccurate particulars of income.

16. In the case of *Granite Gate Properties Private Limited (102 taxmann.com 236) (Delhi)*, decided by Hon'ble Delhi High Court, the assessee had incurred indirect project expenses which was disallowed during the relevant assessment year but was allowed in the next assessment years. On the issue of imposition of penalty under section 271(1)(c) of the Act, the Hon'ble Delhi High Court had held that the full details regarding the expense was disclosed by the assessee and no addition was made by doubting and disturbing figures of amounts as mentioned. Therefore, the penalty imposed under section 271(1)(c) of the Act was set aside. In the present case also the assessee had made full and true disclosure in the respect of the claim for lease rental expense and the change in the method of the accounting in respect of this item, which was duly disclosed in the audited accounts. The additional lease rental expense as claimed by the assessee in this year was otherwise eligible and allowable as deduction in the subsequent years. It is not the case that the assessee had disclosed any inaccurate figure or had not acted in a bona fide manner. Therefore, following the decision of Hon'ble Delhi High Court we are of the considered opinion that the assessee should not be burdened with penalty under section 271(1)(c) of the Act for furnishing inaccurate particulars of the income.

17. In view of the above facts and the judicial precedents, **the penalty order passed under section 271(1)(c) of the Act in the present case for furnishing of inaccurate particulars of income, is quashed.** The Ground No.-1 as taken by the assessee is allowed.

18. The Ground No.-2 and -3 as taken by the assessee were not argued by the Ld. Sr. Counsel and were not pressed. Hence, those grounds are dismissed.

19. In the result, the appeal of the assessee is partly allowed.

**ITA No. 1122/Ahd/2025 to ITA No.1125/Ahd/2025**

20. The facts as well as the grounds taken by the assessee in all these appeals are identical to ITA No. 1121/Ahd/2025 for A.Y.2011-12, except that Ground No. 2 is not appearing in ITA No. 1125/Ahd/2025 for A.Y 2015-16. Therefore, the decision taken by us in ITA No. 1121/Ahd/2025 is applicable ***mutatis mutandis*** to all these appeals. Accordingly, the penalty orders u/s 271(1)(c) for A.Ys. 2012-13 to 2015-16 are all quashed and the appeals of the assessee are partly allowed.

19. In the final result, all the appeals of the assessee are partly allowed.

**Order pronounced in the Court on 16/01/2026 at Ahmedabad.**

Sd/-  
**(SUCHITRA KAMBLE)**  
Judicial Member

Sd/-  
**(NARENDRA PRASAD SINHA)**  
Accountant Member

**Dated – 16<sup>th</sup> January, 2026**

*True Copy*

***Neelesh***

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण / DR, ITAT,
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad

