आयकर अपीलीय अधिकरण 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

माननीय श्री एबी टी. वर्की, न्यायिक सदस्य एवं माननीय श्री गगन गोयल लेखा सदस्य के समक्ष
BEFORE HON'BLE SHRI ABY T. VARKEY, JUDICIAL MEMBER
AND HON'BLE SHRI GAGAN GOYAL, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 1739, 1740, 1741 & 1742/Chny/2026

निर्धारण वर्ष /Assessment Years: 2010-11, 2012-13, 2014-15, 2015-16

Mr. Abdul Rahim, No.35, Amman Koil Street, G.P.O Parrys, Chennai-600 001. [**PAN: ADLPA5451B**]	**v.**	**The Deputy Commissioner of Income Tax,** Central Circle-1(4), Chennai.
(अपीलार्थी**/Appellant)**		**(**प्रत्यर्थी**/Respondent)**
अपीलार्थी की ओर से/ **Assessee by**	:	Mr. B. Ramakrishnan, F.C.A, Ld. AR
प्रत्यर्थी की ओर से /**Revenue by**	:	Ms. Nishi Padma, CIT, Ld. DR
सुनवाईकीतारीख/Date of Hearing	:	10.09.2026
घोषणाकीतारीख /Date of Pronouncement	:	22.10.2026

आदेश **/ O R D E R**

PER GAGAN GOYAL, AM:

These four appeals are preferred by the assessee against the order of Ld. Commissioner of Income Tax (A), Chennai-18, (hereinafter referred as the 'Ld. CIT(A) dated 09.01.2026, for the Assessment Years (hereinafter referred as the 'AYs') 2010-11, 2012-13, 2014-15 & 2015-16 respectively.

GROUDS OF APPEAL

ITA No. 1739/Chny/2026

1. The order of the Learned Commissioner of Income Tax (Appeals) is contrary to the law, facts and circumstances of the case.

2. For that the Learned Commissioner of Income Tax (Appeals) erred in upholding the penalty levied u/s. 271(1)(c) of the Act amounting to Rs. 81,692/-

3. For that the Learned Commissioner of Income Tax (Appeals) erred in upholding the penalty levied u/s 271(1)(c) of the Act, without appreciating that no penalty is leviable on additions made purely on estimate basis, as such additions do not conclusively establish furnishing of inaccurate particulars of income.

For these grounds and such other grounds that may be adduced before or during the hearing of the appeal, it is prayed that the Hon'ble Tribunal may be pleased to delete the penalty levied u/s 271(1)(c) of the Act and/or provide such other relief as this Hon'ble Tribunal may deem fit for which Act of justice, the appellant shall ever remain grateful

ITA No. 1740/Chny/2026

1. The order of the Learned Commissioner of Income Tax (Appeals)is contrary to the law, facts and circumstances of the case.

2. For that the Learned Commissioner of Income Tax (Appeals) erred in upholding the penalty levied u/s. 271(1)(c) of the Act amounting to Rs. 67.297/-

3. For that the Learned Commissioner of Income Tax (Appeals) erred in upholding the penalty levied u/s 271(1)(c) of the Act, without appreciating that no penalty is leviable on additions made purely on estimate basis, as such additions do not conclusively establish furnishing of inaccurate particulars of income.

For these grounds and such other grounds that may be adduced before or during the hearing of the appeal, it is prayed that the Hon'ble Tribunal may be pleased to delete the penalty levied u/s 271(1)(c) of the Act and/or provide such other relief as this Hon'ble Tribunal may deem fit for which Act of justice, the appellant shall ever remain grateful.

ITA 1741/Chny/2026

1. The order of the Learned Commissioner of Income Tax (Appeals)is contrary to the law, facts and circumstances of the case

2. For that the Learned Commissioner of Income Tax (Appeals) erred in upholding the penalty levied u/s. 271(1)(c) of the Act amounting to Rs. 3,69,453/-

3. For that the Learned Commissioner of Income Tax (Appeals) erred in upholding the penalty levied u/s. 271(1)(c) of the Act, without appreciating that no penalty is leviable on additions made purely on estimate basis, as such additions do not conclusively establish furnishing of inaccurate particulars of income.

For these grounds and such other grounds that may be adduced before or during the hearing of the appeal, it is prayed that the Hon'ble Tribunal may be pleased to delete the penalty levied u/s 271(1)(c) of the Act and/or provide such other relief as this Hon'ble Tribunal may deem fit for which Act of justice, the appellant shall ever remain grateful.

ITA 1742/Chny/2026

1. The order of the Learned Commissioner of Income Tax (Appeals)is contrary to the law, facts and circumstances of the case.

2. For that the Learned Commissioner of Income Tax (Appeals) erred in upholding the penalty levied u/s. 271(1)(c) of the Act amounting to Rs. 3,89,259/-

3. For that the Learned Commissioner of Income Tax (Appeals) erred in upholding the penalty levied u/s. 271(1)(c) of the Act, without appreciating that no penalty is leviable on additions made purely on estimate basis, as such additions do not conclusively establish furnishing of inaccurate particulars of income.

For these grounds and such other grounds that may be adduced before or during the hearing of the appeal, it is prayed that the Hon'ble Tribunal may be pleased to delete the penalty levied u/s 271(1)(c) of the Act and/or provide such other relief as this Hon'ble Tribunal may deem fit for which Act of justice, the appellant shall ever remain grateful.

2. The brief facts of the case are that the assessee is an individual engaged in the business of trading in Basmati rice through his proprietorship, concern, M/s. Excellent Food Products and owns M/s. A.R. Rahaman Biryani restaurant. The assessee filed his return of income for the A.Y. 2010-11 admitting a total income of Rs. 4, 51, 958/- on 02.01.2011. A search and seizure operation was conducted in the assessee's residence, and a survey was conducted in his business premises M/s. Excellent Food Products at No.35, Ground Floor, Amman Koil Street, Chicken Market, Chennai-600 001, as part of the search operation in the case of SS Hyderabad Biryani Private Limited group, on 24.08.2015. Consequent to search, a notice u/s. 153A of the Act dated 20.06.2017 was issued and served on 24.06.2017, requiring the assessee to prepare a true and correct return of income and furnish the same within 15 days of receipt of the notice. In response to the notice u/s. 153A of the Act, the assessee filed his return of income on 06.10.2017 admitting a total income of Rs. 4, 51,958/-. Ultimately, the case of the assessee was assessed after making addition u/s. 69C of the Act amounting to Rs. 56, 07, 751/-. The assessee being aggrieved with the same preferred an appeal before the Ld. CIT(A), who in turn dismissed the appeal of the assessee. The assessee being further aggrieved preferred an appeal before the Coordinate Bench of ITAT vide ITA Nos. 1062 to 1067/Chny/2024 dated 27.09.2024. The Coordinate Bench in its orders against the appeals mentioned (supra) deleted the addition made u/s. 69C of the Act and rather directed to apply a profit rate of 5% on estimate basis.

3. After, this order of the Coordinate Bench (wherein the income has been calculated on estimate basis) the AO passed the order of penalty u/s. 271(1)(c) of the Act vide order dated 16.03.2025. The assessee being aggrieved with the same, preferred an appeal before the Ld. CIT(A), who in turn dismissed the appeal of the

assessee. The assessee being further aggrieved, preferred the present appeal before us.

4. We have gone through the order of the AO, the order of the Ld. CIT(A) and submissions of the assessee and the grounds taken before us. It is observed that the quantum addition in the case of the assessee has been deleted by the Coordinate Bench as mentioned (supra) and computation of income was directed to be done on estimation basis @ 5% on the figures quantified by the AO u/s. 69C of the Act. Thereafter, on this estimated income the AO levied the penalty u/s. 271(1)(c) of the Act. The issue involved in the present appeal is no more *res integra* and the proposition of law has already been settled in favour of the assessee i.e. no penalty can be levied on addition made on estimated basis.

5. In his submissions the assessee relied upon the following decisions of the Hon'ble Apex Court, Jurisdictional High Court and other High Courts as under:

[2013] 31 taxmann.com 253 (Mad.) CIT, Chennai *v.* P. Rojes

"Though the Assessing Officer invoked penalty under section 271(1)(c) and stated that the assessee failed to furnish complete details from bank statement, on-going through the materials placed before this Court, it is seen that the Assessing Officer has subsequently found that the said deposit was made for the period commencing from 1-4-2004 to 29-3-2005.

Therefore, when the Assessing Officer himself had found that deposit was not made on a single day, it could not be said that the assessee had failed to furnish complete particulars. The Tribunal has categorically found that in the return, the assessee had shown the income on estimate basis, and such estimation of income was enhanced by the Assessing Officer and consequently, imposed penalty.

Therefore, from the above facts it is clear that levy of penalty was based on the estimation of income. There cannot be any imposition of penalty based on estimation of income. [Para 6]

When the revenue itself has not come out with clear case of suppression of turnover and where there was no specific finding with regard to such factual aspect, imposition of penalty under section 271(1)(c) is not warranted. [Para 7]"

[2010] 189 Taxman 322 (SC) CIT, Ahmedabad *v.* Reliance Petroproducts (P.) Ltd.

A glance of provision of section 271(1)(c) would suggest that in order to be covered, there has to be concealment of the particulars of the income of the assessee. Secondly, the assessee must have furnished inaccurate particulars of his income. The instant case was not the case of concealment of the income. That was not the case of the revenue either. It was an admitted position in the instant case that no information given in the return was found to be incorrect or inaccurate. It was not as if

any statement made or any detail supplied was found to be factually incorrect. Hence, at least, prima facie, the assessee could not be held guilty of furnishing inaccurate particulars. The revenue argued that submitting an incorrect claim in law for the expenditure on interest would amount to giving inaccurate particulars of such income. Such cannot be the interpretation of the words concerned. The words are plain and simple. In order to expose the assessee to the penalty unless the case is strictly covered by the provision, the penalty provision cannot be invoked. By any stretch of imagination, making an incorrect claim in law cannot be tantamount to furnishing inaccurate particulars. [Para 7]

Therefore, it must be shown that the conditions under section 271(1)(c) exist before the penalty is imposed. There can be no dispute that everything would depend upon the return filed, because that is the only document where the assessee can furnish the particulars of his income. When such particulars are found to be inaccurate, liability would arise. [Para 8]

The word 'particulars' must mean the details supplied in the return, which are not accurate, not exact or correct, not according to truth or erroneous. In the instant case, there was no finding that any details supplied by the assessee in its return were found to be incorrect or erroneous or false. Such not being the case, there would be no question of inviting the penalty under section 271(1)(c). A mere making of the claim, which is not sustainable in law by itself, will not amount to furnishing of inaccurate particulars regarding the income of the assessee. Such claim made in the return cannot amount to the inaccurate particulars. [Para 9]

The revenue contended that since the assessee had claimed excessive deductions knowing that they were incorrect, it amounted to concealment of income. It was argued that the falsehood in accounts can take either of the two forms: (i) an item of receipt may be suppressed fraudulently; (ii) an item of expenditure may be falsely (or in an exaggerated amount) claimed, and both types attempt to reduce the taxable income and, therefore, both types amount to concealment of particulars of one's income as well as furnishing of inaccurate particulars of income. Such contention could not be accepted as the assessee had furnished all the details of its expenditure as well as income in its return, which details, in themselves, were not found to be inaccurate nor could be viewed as the concealment of income on its part. It was up to the authorities to accept its claim in return or not. Merely because the assessee had claimed the expenditure, which claim was not accepted or was not acceptable to the revenue, that, by itself, would not attract the penalty under section 271(1)(c). If the contention of the revenue was accepted, then in case of every return where the claim made was not accepted by the Assessing Officer for any reason, the assessee would invite penalty under section 271(1)(c). That is clearly not the intendment of the Legislature. [Para 10]

[2026] 187 taxmann.com 886 (Bom.) PCIT *v.* Elcon Pipe and Fittings (P.) Ltd.

"The issue raised is squarely covered by the decision of this Court in the case of Pr. CIT v. Colo Colour Pvt. Ltd. [IT Appeal No. 48 of 2022, dated 16-9-2025]. In this decision, this Court has clearly taken the view that penalty cannot be imposed under Section 271(1)(c) of the Income Tax Act, 1961 when the addition was sustained purely on an estimate basis or when the addition was made which was on pure guesswork. Since the penalty order was set aside by ITAT on the basis that the addition made in the quantum proceedings was on estimation (i.e. 12.5% of the bogus purchases), the ITAT correct in setting aside the penalty order. The decision of the ITAT is in consonance with the decision of this Court rendered in Colo Colour (P.) Ltd. (supra). [Para 10]

Considering these facts and circumstances, the impugned Order of the ITAT does not give rise to any substantial question of law. The Appeal is therefore dismissed. However, there shall be no order as to costs. [Para 11]"

6. The decision relied upon by the assessee and the facts of the assessee's appeal are identical and the Revenue also has not forward with any new fact or able differentiate the decisions relied upon by the assessee. In view of this, respectfully following the decisions of the Hon'ble Apex Court, Jurisdictional High Court and Bombay High Court, without any hesitation, we hold that the action of the AO is sustainable in law as far as penalty on additions made on estimate basis is concerned. Resultantly, grounds taken by the assessee are allowed.

7. In the result, the appeal of the assessee is allowed in above terms.

ITA No. 1740/Chny/2026

8. The facts in this appeal are identical to what we have discussed (supra) in ITA No.1739/Chny/2026, hence, our decision in this appeal will also remain the same and our observations and findings will apply *mutatis mutandis*.

9. In the result, the appeal of the assessee is allowed in above terms.

ITA No. 1741/Chny/2026

10. The facts in this appeal are identical to what we have discussed (supra) in ITA No.1739/Chny/2026, hence, our decision in this appeal will also remain the same and our observations and findings will apply *mutatis mutandis* except the penalty leviable on the addition on account of income from house property, as we relied upon the decision of Coordinate Benches in ITA Nos. ITA No. 2722/Chny/2025 dated 05.12.2025, ITA No. 3879/Chny/2025 dated 09.07.2026, ITA Nos. 2741 to 2743/Chny/2025 dated 18.02.2026 and ITA No. 3659/Chny/2025 dated 07.07.2026 wherein the coordinate bench held the legal position in favour of the assessee relying on various judicial pronouncements including Hon'ble Jurisdictional High Court in the case of Babuji Jacob V. ITO reported in (2021) 430 ITR 259 (Mad.). Hence, we respectfully follow the decisions of the coordinate benches as cited (supra) and direct the AO to delete the penalty on this count also.

11. In the result, the appeal of the assessee is Allowed.

ITA No. 1742/Chny/2026

12. The facts in this appeal are identical to what we have discussed (supra) in ITA No.1739/Chny/2026, hence, our decision in this appeal will also remain the same and our observations and findings will apply *mutatis mutandis* except the penalty leviable on the addition on account of income from house property, as we relied upon the decision of Coordinate Benches in ITA Nos. ITA No. 2722/Chny/2025 dated 05.12.2025, ITA No. 3879/Chny/2025 dated 09.07.2026, ITA Nos. 2741 to 2743/Chny/2025 dated 18.02.2026 and ITA No. 3659/Chny/2025 dated 07.07.2026 wherein the coordinate bench held the legal position in favour of the assessee relying on various judicial pronouncements including Hon'ble Jurisdictional High Court in the case of Babuji Jacob V. ITO reported in (2021) 430 ITR 259 (Mad.). Hence, we respectfully follow the decisions of the coordinate benches as cited (supra) and direct the AO to delete the penalty on this count also.

13. In the result, the appeal of the assessee is Allowed.

Order pronounced on the 22nd day of October 2026 in Chennai.

Sd/-	**Sd/-**
(एबी टी. वर्की)	**(गगन गोयल)**
(ABY T. VARKEY)	**(GAGAN GOYAL)**
न्यायिक सदस्य/**JUDICIAL MEMBER**	लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai, दिनांक/Dated: 22nd October 2026.
KB

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai /Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF

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