

No concealment penalty even if assessee had followed different system of accounting for particular exp. and income

Summary – The High Court of Gujarat in a recent case of Adhrut Investment (P.) Ltd., (the Assessee) held that Penalty could not be levied under section 271(1)(c) on ground that assessee applied different system of accounting for interest expenses and interest received

Facts

- The assessee claimed interest expenses. On verification, it was found that the interest expenses were debited by the assessee on mercantile basis. However, the interest receivable was not credited on mercantile basis. Thus, the assessee had applied different system of accounting. The Assessing Officer was of view that these tactics were adopted only with a view to conceal the particulars of income and thereby assessee had not disclosed the income from interest on accrual basis. The same was, therefore, added to the income of the assessee as concealed income and penalty under section 271(1)(c) was also levied.
- The Commissioner (Appeals) dismissed the assessee's appeal.
- On second appeal, the Tribunal deleted the penalty.
- On revenue's appeal to the High Court:

Held

- The Tribunal has relied on the decision of *ShriApara Textile & Traders Ltd. v. ITO* [1989] 33 TTJ (Ahd.) 23, the judgment which has attained finality. This Court in the case of *CIT v. Shahibaug Enterprise (P.) Ltd.* [2010] 320 ITR 695 (Guj.) has also decided in favour of the assessee.
- In that view of the matter, both these appeals are dismissed.