

No penalty order if notice didn't specify whether it was case of concealment or furnishing inaccurate income

Summary – The Kolkata ITAT in a recent case of Jeetmal Choraria., (the Assessee) held that where show-cause notice issued under section 274 did not specify charge against assessee as to whether it was for concealing particulars of income or furnishing inaccurate particulars of income, penalty order passed under section 271(1)(c) in pursuance of said notice deserved to be set aside

Facts

- For relevant year, assessee filed his return declaring certain taxable income. The Assessing Officer completed assessment making various additions.
- The Assessing Officer also passed a penalty order under section 271(1)(c) which was confirmed by the Commissioner (Appeals).
- The assessee filed instant appeal challenging validity of penalty order on the ground that the show-cause notice issued under section 274 before imposing penalty did not contain the specific charge against the assessee namely as to whether he was guilty of having concealed particulars of income or having furnished inaccurate particulars of income.
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Held

- The show-cause notice issued under section 274 did not specify the charge against the assessee as to whether it was for concealing particulars of income or furnishing inaccurate particulars of income. The show-cause notice under section 274 does not strike out the inappropriate words. In these circumstances, imposition of penalty cannot be sustained. It is therefore held that imposition of penalty in the present case cannot be sustained and the same is directed to be cancelled.
- In the result the appeal of the assessee is allowed.