

Penalties under sections 271 and 272A

Nitesh S. Joshi
Advocate

Purpose behind levy of penalty

- Acts as a deterrent to tax evaders
- Necessary in view of limitation on scrutiny cases
- Acts as a tool to enforce compliance

General principles (section 271)

- Assessment and penalty proceedings
- Recording of satisfaction in course of assessment proceedings
- Speaking order

General principles (section 271)

- Penalty is discretionary
- Law applicable
- Strict construction

General principles (section 271)

- Interpretation in favour of assessee
- Reasonable cause
- Burden of proof

Section 271(1)(b)

- Nature of default
- Quantum of penalty

General principles - section 271(1)(c)

- Meaning of –

Concealment of particulars of income

Furnishing of particulars of income

- Charge precise
- Agreed addition

General principles - section 271(1)(c)

- Conditional surrender
- Assessee's stand contrary to judicial orders
- Appeal admitted by High Court in quantum proceedings

Different scenarios

- Dispute regarding year of assessment
- Dispute regarding head of assessment
- Dispute regarding capital or revenue

Different scenarios

- Adhoc disallowance
- Estimated additions
- Deemed income
- Intangible additions

Different scenarios

- Mistaken claim
- Wrong claim
- Unsustainable claim

Section 271(1) - Explanation 1

- Manner of application
- Explanation part of section
- Presumption rebuttable

Section 271(1) - Explanation 1

- False
- Bonafide
- Reliance Petroproducts Pvt. Ltd. 322 ITR 158
(SC)

Explanations to section 271(1)

- Explanation 2 read with section 271(1A)
- Explanation 3
- Explanation 4
- Explanation 5A
- Explanation 7

Other provisions

- Sub-section (4) of section 271
- Reduction or waiver of penalty (section 273A)
- Immunity from penalty (section 273AA)

Other provisions

- Reasonable cause (section 273B)
- Procedural safeguards (section 274)
- Limitation (section 275)

Important judicial pronouncements

- K. P. Madhusudhanan 251 ITR 99 (SC)
- Dharmendra Textile Processors 306 ITR 277 (SC)
- Reliance Petroproducts Pvt. Ltd. 322 ITR 158 (SC)

Section 272A

- Nature of default
- Levy of penalty

Thank you