

MAK Data P. Ltd. v. Commissioner of Income Tax-II

Civil Appeal No. 9772 of 2013

[2013] 10 SCR 570 | 2013-10-30

Whether a conditional surrender described as voluntary disclosure to settle a dispute prevented a concealment penalty where the assessee supplied no explanation for the surrendered income, and whether the assessment record disclosed the required satisfaction for initiation.

271(1)(c) | 271(1)(c), Explanation 1 | 274

2-judge bench | K.S. Radhakrishnan, J. | A.K. Sikri, J.

Assessment years: 2004-05

Historical section 271(1)(c) penalty decision

This note concerns section 271(1)(c) in the historical statutory and assessment-year setting of the judgment. It is not a present-day penalty manual. Verify the applicable provision, statutory version and subsequent authority; no automatic mapping to the Income-tax Act, 2025 is made.

01 FACTS OF THE CASE

For assessment year 2004-05, MAK Data filed its return on 27 October 2004 declaring income of Rs.16,17,040 with a tax audit report. A section 133A survey of its sister concern, M/s Marketing Services, had taken place on 16 December 2003. Impounded documents included share applications, bank statements, corporate and tax records, and signed blank share-transfer deeds. During scrutiny, the Assessing Officer sought specific information about those documents through a show-cause notice dated 26 October 2006 (paragraph 2).

In its reply dated 22 November 2006, the assessee offered Rs.40,74,000 for assessment to avoid litigation and settle the dispute, while denying concealment and making its offer subject to no penalty or prosecution. The amount was assessed as income from other sources. The Assessing Officer imposed a penalty of Rs.14,61,547; the Commissioner (Appeals) upheld it. The Tribunal deleted the penalty on its view of the surrender. The Delhi High Court reversed because no explanation had been supplied for the income, attracting the first limb of Explanation 1(A) (paragraphs 2-5).

Source: [reported judgment](#) / [paragraphs 2-5](#) / [PDF pages 5, 6, 7](#) / [judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court reproduced Explanation 1 and agreed that the Tribunal had misunderstood it. The issue was the explanation for the relevant income or particulars, not the description attached to an offer of surrender. It explained the initial burden on the assessee to rebut the concealment presumption with cogent, reliable evidence, and the movement of the burden to Revenue once that initial onus is discharged. This reasoning operates within the statutory explanation and is not a rule that every assessed addition automatically attracts penalty (paragraphs 6-7).

The assessee had supplied only reasons for wanting to end the dispute, such as saving litigation costs and resources. Those statements did not explain the income. Calling a disclosure voluntary therefore did not create immunity from penalty. On the facts, the offer also followed detection: the sister-concern survey occurred more than ten months before the return, yet the return omitted the sum later surrendered. The Court concluded that the assessee had not intended to declare its true income (paragraphs 8-9).

On the separate satisfaction argument, the Court found that the Assessing Officer had recorded a categorical finding of concealment. Satisfaction about initiation had to arise during assessment, but the Court did not require it to be expressed in a prescribed manner or separately reduced to writing. It referred to *Union of India v. Dharmendra Textile Processors* and *CIT v. Atul Mohan Bindal* on section 271(1)(c). These observations do not dispense with satisfaction itself, nor do they decide every possible defect in a penalty notice (paragraphs 9-10).

Source: [reported judgment / paragraphs 6-10 / PDF pages 7, 8, 9 / judicial text](#)

03 JUDICIAL DECISION

The assessee's appeal was dismissed without costs. The Supreme Court fully agreed with the High Court and found no illegality in initiation of penalty proceedings on these facts; the High Court's reversal of the Tribunal's deletion of the penalty remained in force (paragraph 11).

Source: [reported judgment / paragraphs 11 / PDF pages 9 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Assessee appeal dismissed; High Court judgment left undisturbed; no costs

Final merits determination sustaining the adverse penalty result under historical section 271(1)(c)

A post-detection surrender unsupported by an explanation for the income did not confer immunity. The Court did not hold that every addition, every surrender or every unsuccessful explanation automatically warrants penalty.

Source: [reported judgment / paragraphs 5-11 / PDF pages 7, 8, 9 / judicial text](#)

05 AKHB REVIEW POINT

Separate the explanation for the income from the commercial reason for agreeing to an addition. A request to end litigation supplies neither a source explanation nor evidence rebutting the statutory presumption. Record when the survey, return, inquiry and surrender occurred, and test the actual explanation and supporting material against the applicable statutory version.

The outcome turns on the absence of an explanation and the surrounding detection chronology. Do not transform the rejection of a voluntary-disclosure label into an automatic-penalty formula. Likewise, read the satisfaction passage with the Court's finding that satisfaction was in fact recorded; it is not a universal answer to all initiation or notice objections.

Source: [reported judgment / paragraphs 6-10; editorial application limited to this reasoning and factual setting / PDF pages 7, 8, 9 / judicial text](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

133A; 143(2); 142(1)

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

K.S. Radhakrishnan, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

HISTORICAL STATUTORY SETTING

The Court applied section 271(1)(c) and the historical Explanation 1 reproduced in paragraph 6. Clause (A) addresses a failure to offer an explanation or an explanation found false. Clause (B) addresses an explanation that cannot be substantiated where the assessee also fails to establish bona fides and disclosure of all material facts. The resulting addition or disallowance is deemed concealed income for clause (c). The High Court and Supreme Court applied the no-explanation limb on this record. No later statutory text is substituted for the text considered in the judgment.

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

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Judicial paragraphs 1-11 on physical PDF pages 5-9 (reported pages 574-578). The headnote and case-reference table on pages 1-5 are editorial, not judicial reasoning.

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Assessment year stated in judicial paragraph 2; the return was filed on 27 October 2004.

Paragraph 4 on physical PDF page 6 prints section 217(1)(c) in the sentence imposing penalty. The surrounding judicial text repeatedly identifies the proceeding as section 271(1)(c); the isolated transposition is disclosed rather than treated as a different statutory basis.; Paragraph 9 initially uses the word search but immediately describes the same section 133A survey of the sister concern; paragraph 2 expressly dates and identifies that survey. This note preserves the section 133A factual setting rather than inferring a separate search.; The satisfaction ruling is read together with the categorical finding recorded on this assessment; no blanket validity ruling for all penalty notices is inferred.; Neither Price Waterhouse Coopers nor Reliance Petroproducts is discussed in this bounded judicial text. An editorial comparison must not be represented as a relationship decided by the Court.

STATUTORY SCOPE

Historical judgment review only. No automatic mapping to the Income-tax Act, 2025 or certification of present law or procedure.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive subsequent judicial treatment or current-law audit.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 9](#)

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