

---

**(1989) 03 CAL CK 0054**

**Calcutta High Court**

**Case No:** IT Reference No. 33 of 1979

Commissioner of Income Tax

APPELLANT

Vs

Kanayalal Birdhichand

RESPONDENT

---

**Date of Decision:** March 7, 1989

**Acts Referred:**

- Income Tax Act, 1961 - Section 256(2), 271(1)(c)

**Citation:** (1989) 47 TAXMAN 192

**Hon'ble Judges:** Suhas Chandra Sen, J; Bhagabati Prasad Banerjee, J

**Bench:** Division Bench

**Advocate:** B.K. Naha, for the Appellant;

---

### **Judgement**

Sen, J.

The following question of law has been referred by the Tribunal to this Court u/s 256(2) of the income tax Act, 1961 ("the Act"):

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the IAC was not justified in imposing penalty u/s 271(1)(c) of the income tax Act, 1961 when, even according to the assessee's own admission an addition in the interest account of Rs. 57,812 to the returned income was called for?"

The relevant assessment year is the assessment year 1965-66.

2. The dispute in this case is about the validity of imposing penalty u/s 271(1)(c) of the income tax Act, 1961.

3. It appears from the order of the Tribunal that the Tribunal had taken note of the fact that in the ITO's original assessment, the income of the assessee was computed at Rs. 2 lakhs, which was subsequently reduced by the Tribunal to Rs. 1,25,000. Under the circumstances, the Tribunal on a review of the facts came to the conclusion that no penalty was leviable.

4. We do not find any infirmity or illegality in the order of the Tribunal.

5. Hence, the question is answered in the affirmative and in favour of the assessee.  
There will be no order as to costs.

Banerjee, J.

I agree.