

**Concealment Penalty : ITAT Order as affirmed by High Court on Principles and Facts:
No penalty merely for expense not found incurred for BUSINESS purpose if
genuineness undoubted.**

“It is trite law that the assessment proceedings and penalty proceedings are separate proceedings and are distinct and independent of each other. In the penalty proceedings, the Assessing Officer has to show that the additions made to the income of the assessee are in fact the income of the assessee. Thus, in the penalty proceedings the Assessing Officer has to bring on record some further material to demonstrate that the assessee had concealed its income....

*Where the assessee had disclosed all the facts before the Assessing Officer and the Assessing Officer, on consideration of the evidence furnished by the assessee, come to the conclusion that the claim has not been substantiated with sufficient evidence, does not automatically result in levy of penalty. Where the assessee has disclosed all material facts in regard to the claim made, the onus placed upon the assessee stood discharged. In the instant case, the assessee had disclosed all the particulars of income. **The Assessing Officer disallowed the expenses claimed on the ground that they were not incurred for the business purpose of the assessee and that they have been claimed against exempted income. Thus, it cannot be held that the assessee has filed inaccurate particulars of income or had concealed its income.** Thus, the penalty cannot be levied for this reason also. **We also observe that the expenses claimed by the assessee have not been found by the Assessing Officer as bogus or false. Thus the genuineness of the expenses incurred by the assessee has not been doubted by the Assessing Officer** and, therefore, the penalty cannot be levied on the assessee still further, the assessee explained that it was due to genuine mistake”*