

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'D' NEW DELHI**

**BEFORE SH. G.D.AGRAWAL, HON'BLE PRESIDENT  
AND  
SH.K.N.CHARRY, JUDICIAL MEMBER**

**ITA No. 6764/Del/2015  
(ASSESSMENT YEAR: 2004-05)**

BRV Developers Pvt.Ltd., 201, Mezzanine Floor, C-52, Vivek Vihar, New Delhi-110095. PAN-AADCP3196J	<b>vs</b>	ITO, Ward-5(2), New Delhi.
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Appellant by</b>	Sh. Nipun Mittal, CA
<b>Respondent by</b>	Sh. Arun Kumar Yadav, Sr.DR
<b>Date of Hearing</b>	20.09.2017
<b>Date of Pronouncement</b>	09.10.2017

**ORDER**

**PER K.N.CHARRY, JUDICIAL MEMBER**

This appeal preferred by the assessee is directed against the dismissal of appeal No.655/14-15 vide order dated 23.10.2015 passing by the Commissioner of Income Tax (Appeal) [in short "CIT(A)"]-2, New Delhi for 2004-05 Assessment Year where Ld. CIT(A) confirmed the penalty levied against the assessee u/s 271(1)(c) of the Income Tax Act, 1961 (in short "Act").

2. Briefly stated facts are that the assessee that the assessment u/s 143(3)/147 of the Act was completed on 23.12.2011 at an income of Rs.20,00,000/- as against the income of Rs.NIL on the ground that the assessee received accommodation entries of Rs.20,00,000/- from two companies of the Tarun Goyal Group. The AO simultaneously initiated proceedings u/s 271(1)(c) of the Act and concluded the same vide order dated 23.03.2015 with the levy of penalty of Rs.7,17,500/-. The

appeal preferred by the assessee against the levy of penalty was dismissed by the Ld.CIT(A) by way of the impugned order hence this appeal by the assessee challenging the levy of penalty.

3. At the outset, Ld.AR submitted that in the appeal preferred by the assessee in ITA No.818/Del/2014 challenging the quantum addition of Rs.20,00,000/-, a Co-ordinate Bench of this Tribunal deleted the addition declaring the re-assessment proceedings as *void ab initio* on the ground of absence of validity of service of notice u/s 148 of the Act within the stipulated period. He, therefore, submitted that the penalty may also be deleted. There is no dispute by the Revenue as to the quashing of re-assessment proceedings vide order dated 29.04.2016 by a Co-ordinate Bench of this Tribunal. Since the quantum is deleted, the penalty cannot survive as such while allowing this appeal, we direct the AO to delete the same.

4. In the result, the appeal filed by the assessee is allowed.

**The order is pronounced in the open court on 09<sup>th</sup> October, 2017.**

**Sd/-**  
**(G.D.AGRAWAL)**  
**PRESIDENT**

*\*Amit Kumar\**

Date:- 09.10.2017

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1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**Sd/-**  
**(K.N.CHARRY)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI