

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC", NEW DELHI  
BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER**

**ITA No.748/Del/2018  
Assessment Year : 2013-14**

Avdesh Kumar, C/o Akhilesh Kumar, Adv., Chamber No.206-207, Ansal Satyam, RDC Raj Nagar, Ghaziabad, Uttar Pradesh.	<b>Vs.</b>	DCIT, Circle- 1, Ghaziabad, Uttar Pradesh.
<b>PAN : AURPK6861G</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : Shri Akhilesh Kumar, Adv.  
Department by : Shri Atiq Ahmed, Sr. DR  
Date of hearing : 02-08-2018  
Date of pronouncement : 02-08-2018

**ORDER**

**PER R. K. PANDA, AM :**

This appeal filed by the assessee is directed against the order dated 25.10.2017 of CIT(A), Ghaziabad relating to assessment year 2013-14.

2. The assessee in his grounds of appeal has challenged the order of the Id. CIT(A) in confirming the penalty of Rs.5,28,298/- levied by the Assessing Officer u/s 271(1)(c) of the I.T. Act, 1961.

3. After hearing both the sides, I find the Assessing Officer had levied penalty of Rs.5,28,298/- on account of addition of Rs.17,09,702/- to the total income of the assessee on account of non-disclosure of salary received outside India from the foreign employer which was credited to the bank account of the assessee and which appeared in the form of 26AS statement. I find Id. CIT(A)

sustained the penalty levied by the Assessing Officer. In the mean time, the Tribunal vide ITA No. 747/Del/2018 order dated 30.07.2018 has deleted the addition made by the Assessing Officer and upheld by the Id. CIT(A). Therefore, the very basis on which the penalty was levied does not survive. Accordingly, the penalty so levied by the Assessing Officer and upheld the Id. CIT(A) is cancelled.

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

Order pronounced in the open Court at the time of hearing itself i.e. on this 02<sup>nd</sup> August, 2018.

**Sd/-**  
**(R. K. PANDA)**  
**ACCOUNTANT MEMBER**

Dated: 02-08-2018.

*Sujeet*

*Copy of order to: -*

- 1) The Appellant
- 2) The Respondent
- 3) The CIT
- 4) The CIT(A)
- 5) The DR, I.T.A.T., New Delhi

By Order

//True Copy//

Assistant Registrar  
ITAT, New Delhi