

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES 'Friday/A', NEW DELHI**

**Before Ms. Sushma Chowla, Vice President**

**Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 5279/Del/2019 : Asstt. Year : 2012-13**

Nagesh Knitwears Pvt. Ltd., G T Road, West Ludhiana, Punjab-141008	Vs	Addl. CIT, Special Range-6, New Delhi-110002
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAACN2140D</b>		

**Assessee by : Sh. Munshi Ram, AR**

**Revenue by : Sh. S. N. Meena, Sr. DR**

**Date of Hearing: 07.02.2020**

**Date of Pronouncement: 21.02.2020**

**ORDER**

**Per Dr. B.R.R. Kumar, Accountant Member:**

The present appeal has been filed by the assessee against the order of Id. CIT(A)-37, New Delhi dated 16.04.2019.

2. Following grounds have been raised by the assessee:

*"1. That the Id. CIT (A) has erred both in law and on facts in confirming the order of penalty levied u/s 271(1)(c) of I.T. Act, 1961 at Rs.1,43,690/- by the Id. Additional Commissioner of Income Tax.*

*2. That the appellant humbly prays that the order of the Id. CIT (A) may kindly be set aside and penalty imposed by the Id. Addition CIT be cancelled."*

3. Heard the arguments of both the parties and perused the material on record.

4. The brief facts of the case are that the assessee filed the return of income of Rs.1,20,90,150/-. As per order u/s 143(3)

of the Act dated 26.03.2015, the income was assessed at Rs.1,69,63,941/-. The assessee debited an amount of Rs.48,73,791/- on account of rebate and discount. The assessee was required to furnish the complete details in respect of the said rebate and discount, the assessee filed ledger account of Rs.4,78,611/- in respect of rebate and discount only and another ledger was in respect of the claim paid to foreign parties at Rs.44,08,788/- and since the assessee failed to substantiate the claim except filing the ledger account which is not enough proof, the Assessing Officer added the total sum of Rs.48,73,791/- under the head 'rebate and discount'.

5. The Id. CIT (A) after perusal of the bank certificates to export and realization from which the difference between bill amount and realized amount directed the deletion of Rs.44,08,758/-. In respect of Rs.4,65,003/- relating to domestic sale, the Id. CIT (A) observed that though the assessee was asked to produce the books of accounts, they failed to produce the same and therefore, confirmed the disallowance to the tune of Rs.4,65,003/-. The Tribunal after verification of domestic sale held that the rebate and discount constituting 0.14%, 0.02%, 0.02% and 0.24% declared by the assessee in the earlier four years has been accepted, unaltered in the orders passed u/s 143(3) of the Income Tax Act, 1961 and deleted the addition of Rs.4,65,003/-.

6. At this juncture, since the entire addition made on account of rebate and discount stands deleted, the penalty levied u/s 271(1)(c) do not survive. Hence, the order of the Id. CIT (A) is liable to be quashed.

7. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 21/02/2020.

Sd/-

**(Sushma Chowla)**  
**VICE PRESIDENT**

Sd/-

**(Dr. B.R.R. Kumar)**  
**ACCOUNTANT MEMBER**

**Dated: 21/02/2020**

\*Subodh\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**