

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'G' NEW DELHI**

**BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER
A N D
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 7077/DEL/2018 (A.Y. 2009-10)

(THROUGH VIDEO CONFERENCING)

Mr. Vansh, House No. 329, Harijan Basti, Village & P.O. Bijwasan, New Delhi – 110 061. PAN: ACCPY5738K (APPELLANT)	Vs	ITO, Ward : 44 (4), New Delhi. (RESPONDENT)
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Appellant by	Shri Rahul Chourasia, C.A.
Respondent by	Shri Vipul Kashyap, Sr. DR

Date of Hearing	19.11.2020
Date of Pronouncement	25.11.2020

ORDER

PER SUCHITRA KAMBLE, JM :

This appeal is filed by the assessee against the order dated 26.06.2018 passed by CIT (Appeals)-15, New Delhi, for Assessment Year 2009-10.

2. The grounds of appeal are as under:-

“ 1. That the order dated 26-06-2018 passed u/s 250 of the Income-tax Act, 1961 by the Commissioner of Income-Tax (Appeals)-15, New Delhi is against law and facts on the file as he was not justified to uphold the action of the Ld Assessing Officer in levying penalty u/s 271 (1)(c) of the Income-tax Act, 1961 of Rs.21,78,999/- for alleged concealment/furnishing inaccurate particulars of income.

2. That the order dated 26-06-2018 passed u/s 250 of the Income-tax Act, 1961 by the Commissioner of Income Tax (Appeals)-15, New Delhi is against law and facts

on the file as he was not justified to uphold the action of the Ld Assessing Officer in levying a penalty of Rs. 21,78,999/- without clearly specifying the limb of section 271 (1)(c) of the Act under which penalty proceedings had been initiated. “

3. The Assessment was completed on 14.03.2014 at an income of Rs. 68,41,372/- including Rs. 68,41,000/- on account of Short Term Capital Gain. The penalty order under Section 271(1)(c) was passed on 28.02.2017 thereby imposing penalty of Rs. 21,78,999/-.

4. Being aggrieved by the penalty order under Section 271(1)(c) of the Act, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the CIT(A) has not given the appropriate opportunity of hearing to the assessee to represent his case.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. We have heard both the parties and perused the material available on record. It is pertinent to note that the assessee has not appeared before the CIT(A) and the order is passed ex-parte. From the perusal of the order of the CIT(A), it can be seen that the CIT(A) has not given any categorical finding on merit of the case. Therefore, it will be appropriate to give the opportunity of hearing to the assessee before the CIT(A). Hence, we are remanding back the entire issue to the file of the CIT(A) to be decided on merit. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice. We further direct the assessee to co-operate the revenue authorities for just and proper disposal by remaining present on the hearing dates and submit the relevant documents, otherwise, the revenue is at liberty to dismiss the appeal of the assessee ex-parte on merit. The appeal of the assessee is partly allowed for statistical purpose.

8. In result, the appeal filed by the assessee is partly allowed for statistical purpose.

Order pronounced in the Open Court on this 25th Day of November, 2020

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

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated : 25/11/2020

MEHTA/R.N

Copy forwarded to :-

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

ASSISTANT REGISTRAR
ITAT NEW DELHI