

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. MAHAVIR PRASAD, JUDICIAL MEMBER
(THROUGH VIDEO CONFERENCING)**

ITA No.1800/Del/2018
Assessment Year: 2007-08

Patti Ram Manoj Kumar Mittal & Co. CAs, 305, Dakha Chamber 2068/38, Nai Wala, Karol Bagh, New Delhi PAN No. AVEPR0907L	Vs	ITO Ward – 26 (1) New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh.Manoj Kumar, CA
Respondent by	Sh. Gaurav Pundir, Sr DR

Date of hearing:	15/07/2021
Date of Pronouncement:	15/07/2021

ORDER

PER N. K. BILLAIYA, AM:

This appeal filed by the assessee is preferred against the order of the CIT(A)-15, New Delhi dated 29.12.2017 for A.Y. 2007-08.

2. The sum and substance of the grievance of the assessee is that the CIT(A) erred in confirming the penalty levied u/s. 271 (1) (c) of the Act by the AO amounting to Rs.2925851/-.

3. The roots for the levy of penalty lie in the assessment order dated 19.12.2011 framed u/s. 143 (3) r.w.s. 147 of the Act.

4. The quarrel relating to the additions made in the assessment order travelled upto the Tribunal and the Tribunal vide order dated 07.09.2018 in ITA No.5529/Del/2013 quashed the assessment order. The relevant findings of the Tribunal read as under :-

Respectfully following the judgment of Co-ordinate Bench and other case laws relied by the assessee, we are of the opinion that the reopening of assessment is bad in law and not sustainable being valid. Therefore, the impugned assessment deserves to be quashed and consequential addition to be deleted. Since the assessment stands quashed as per above discussion, we need not to adjudicate upon the merits of the addition on factual aspects of the case. Accordingly, the appeal of the assessee is allowed.

5. Since the foundation has been removed by the Tribunal the levy of penalty should fall. We direct the AO to delete the penalty levied u/s. 271 (1) (c).

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

7. Decision announced in the open court in the presence of both the representatives on 15.07.2021.

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER

NEHA

Date:-15.07.2021

Copy forwarded to:

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

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	15.07.2021
Date on which the typed draft is placed before the dictating Member	15.07.2021
Date on which the typed draft is placed before the Other member	15.07.2021
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	