

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'C' BENCH,
NEW DELHI [THROUGH VIDEO CONFERENCE]**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI K.N. CHARY, JUDICIAL MEMBER**

ITA No. 2522/DEL/2018
[A.Y 2009-10]

Shri Jagat Singh,
Present Addresss : 704/15
Krishna Colony, Jind Haryana

Vs.

The Income tax Officer
Ward 21(4)
Delhi

PAN: AVRPS 5013 P

[Appellant]

[Respondent]

Assessee by : Shri R.R. Singla, Adv

Revenue by : Ms. Anima, Sr. DR

Date of Hearing : 22.07.2021

Date of Pronouncement : 22.07.2021

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the assessee is preferred against the order of the
CIT(A) - 13, New Delhi dated 27.02.2018 pertaining to A.Y 2009-10.

2. The sum and substance of the grievance of the assessee is that the Id. CIT(A) erred in confirming the penalty levied by the Assessing Officer amounting to Rs. 22,61,514/- u/s 271(1)(c) of the Income-tax Act, 1961 [hereinafter referred to as 'The Act'].

3. The roots for levy of penalty lie in the assessment order dated 28.12.2011 framed u/s 143(3) of the Act wherein the returned income of Rs. 1,55,650/- was assessed at Rs. 68,08,650/- after making addition u/s 68 of the Act amounting to Rs. 66,53,000/-.

4. The quarrel travelled upto the Tribunal, and the Tribunal vide order dated 10.07.2018 in ITA No. 2412/DEL/2015 decided the quarrel as under:

"7. Assessee had produced before Assessing Officer the summary of all Bank Account for the year 2008-09 with Cash Flow Statement and list of person whom the advances were given with their affidavits, aadhar cards and bank accounts statement available at page 59 to 95 of the Paper Book, which have not been considered by the AO as well as by the Ld. CIT(A). In view of the matter, it would be in the interest of justice to set aside the matter to the AO to decide afresh after given an opportunity of being heard to the assessee by passing a speaking order and by

taking into consideration that the assessee is an agriculturist and has brought on record the entire details concerning additions in question. Consequently, appeal filed by the assessee stands allowed for statistical purposes".

5. Since the foundation has been restored to the file of the Assessing Officer to be decided afresh, we deem it proper and just to restore this issue of levy of penalty u/s 271(1)(c) of the Act to the file of the Assessing Officer. The Assessing Officer is directed to decide the levy of penalty afresh after deciding the quantum.

6. In the result the appeal of the assessee in ITA No. 2522/DEL/2018 is allowed for statistical purposes.

The order is pronounced in the open court in the presence of both the rival representative on 22.07.2021.

Sd/-

[K.N. CHARY]
JUDICIAL MEMBER

Sd/-

[N.K. BILLAIYA]
ACCOUNTANT MEMBER

Dated: 22nd July, 2021

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
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	
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