

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'F' BENCH,
NEW DELHI (THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
MS. MADHUMITA ROY, JUDICIAL MEMBER**

**ITA No. 2517/DEL/2018
[A.Y 2012-13]**

Smt Pushpa Gautam
4/20, Block No. 4
East Patel Nagar
New Delhi

Vs.

The Addl. C.I.T
Central Circle - 8
New Delhi

PAN : BAVPG 1975 L

[Appellant]

[Respondent]

**Date of Hearing : 10.08.2021
Date of Pronouncement : 10.08.2021**

Assessee by : Shri Sangeeta Singh, Adv

Revenue by : Shri Bharat B. Garg, Sr. DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals]-24, New Delhi dated 31.01.2018 pertaining to Assessment Year 2012-13.

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 u/s 271AAA of the Income tax Act, 1961 [hereinafter referred to as 'The Act' for short] amounting to Rs. 32,86,690/-.

3. The roots for levy of penalty lie in the assessment order framed u/s 143(3) of the Act wherein the addition of Rs. 52.65 lakhs was made. The quarrel relating to the quantum addition travelled upto the Tribunal and the Tribunal in ITA No. 5806/DEL/2015 order dated 24.10.2018 has deleted the additions made in the assessment order. The relevant findings of the co-ordinate bench read as under:

.6. After considering the submissions of both the parties, we are of the view that issue is covered in favour of the assessee by order of the ITAT Delhi Bench dated 04.06.2018(supra) passed in the case of co-owners of the property Shri Shailender Kumar Gautam and Shri Vishvajit Gautam, whereby the Tribunal deleted the similar addition. The appeals of the assesseees have been allowed and departmental appeal has been dismissed. Following the reasons for decision ITA.No.5806/Del./2015 of the order dated 04.06.2018, we set aside the orders of the authorities below and delete the entire addition."

4. Since the foundation has been removed, the super structure must fall. The Assessing Officer is directed to delete the impugned penalty.

5. In the result, the appeal filed by the assessee in ITA No. 2517/DEL/2018 is allowed.

The order is pronounced in the open court on 10.08.2021 in the presence of both the rival representatives.

Sd/-

**[MADHUMITA ROY]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 10th August, 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	
Date on which the fair order comes back to the Sr.PS/PS	
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Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
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