

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

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No. 6421/DEL/2018
[A.Y 2006-07]**

Shri Krishan Lal Madhok
672, Tulsi Farms, Opp. Nanda Hospital
Chattarpur, New Delhi

Vs.

The A.C.I.T.
Central Circle - 15
New Delhi

PAN: AAKPM 8593 J

[Appellant]

[Respondent]

Date of Hearing : 06.09.2021

Date of Pronouncement : 06.09.2021

Assessee by : Shri Priyanshu Goel, CA

Revenue by : Shri Rocktim Saikia, Sr. DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the assessee is preferred against the Commissioner of Income Tax [Appeals] - XXVI, New Delhi dated 03.08.2018 pertaining to Assessment Year 2006-07.

2. The solitary grievance of the assessee is that the Id. CIT(A) erred in confirming the penalty of Rs. 69,17,320/- u/s 271(1)(c) of the Income tax Act, 1961 [hereinafter referred to as 'The Act' for short].

3. The roots for levy of penalty lie in the assessment order dated 09.03.2015 framed u/s 143(3) r.w.s 153A of the Act wherein the returned income of the assessee was assessed by making addition on account of undisclosed deposits in HSBC Bank amounting to Rs. 20,05,50,545/-

4. The quarrel in respect of the addition made in the assessment order travelled upto the Tribunal and the Tribunal in ITA Nos. 3917 to 3921/DEL/2017 for A.Ys 2006-07 to 2012-13 has deleted the additions.

The relevant findings of this Tribunal read as under:

"27. Considering the facts of the case in totality, as discussed hereinabove, as culled out from the records, and the relevant documentary evidences, we do not find any merit in bifurcating the income in two A.Ys when the assessee has paid taxes in A.Y 2007-08. Making the addition of same income in two A.Ys definitely amounts to double taxation. We, accordingly direct the Assessing Officer to delete the addition in A.Y. 2006.07 amounting to Rs. 2,05,50, 550/- and Rs. 18,58,311.00 in F.Y 2007-08 also.

Accordingly, the appeals of the assessee in ITA Nos. 6269 and 6268/DEL/2017 are allowed.

5. Sublato Fundamento Cadit Opus, meaning thereby, that in case the foundation is removed, the super structure falls. Since the foundation [assessment] has been removed, the super structure i.e. penalty must fall. Accordingly, the penalty is directed to be deleted.

6. In the result, the appeal filed by the assessee in ITA No. 6421/DEL/2018 is allowed.

The order is pronounced in the open court on 06.09.2021 in the presence of both the rival representatives.

Sd/-

[SUCHITRA KAMBLE]
JUDICIAL MEMBER

Sd/-

[N.K. BILLAIYA]
ACCOUNTANT MEMBER

Dated: 06th September, 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	
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 the file goes to the Head Clerk	
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Date of dispatch of the Order	