

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

**BEFORE MS SUCHITRA KAMBLE, JUDICIAL MEMBER  
AND  
DR. B. R. R. KUMAR, ACCOUNTANT MEMBER**

**ITA No. 4019/DEL/2017 ( A.Y 2007-08)  
(THROUGH VIDEO CONFERENCING)**

Amandeep Singh Sran 527B, 5 <sup>th</sup> Floor HBN Office, D- Mall, Plot -D, Distt Centre, Paschim Vihar, New Delhi AUV PSS370E <b>(APPELLANT)</b>	Vs	DCIT Central Circle-29 New Delhi  <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Sh. Gunjan Jain, CA</b>
<b>Respondent by</b>	<b>Sh. Virender Singh, Sr. DR</b>

<b>Date of Hearing</b>	<b>29.09.2021</b>
<b>Date of Pronouncement</b>	<b>08.10.2021</b>

**ORDER**

**PER SUCHITRA KAMBLE, JM**

This appeals is filed by the assessee against the order dated 07/04/2017 passed by the CIT(A)-30, New Delhi for Assessment Year 2007-08.

2. The grounds of appeal are as under:-

1. *“Under the facts and the circumstances of the case, penalty order passed u/s 271(1)(c) of the Act by the Ld. A.O. and confirmed by the Id. CIT(A) is invalid & bad in law as from the notice issued u/s 274 r.w.s. 271 (1)(c) of the Act it is not discernable as to whether the penalty proceedings were initiated for furnishing of inaccurate particulars of income or concealment of income and therefore, the impugned penalty order passed deserves to be quashed.*

*2. Under the facts and circumstances of the case, the Ld. First Appellate Authority has grossly erred in upholding the action of Id. Assessing Authority imposing the penalty of 1,07,100/- u/s 271(l)(c) of the Income Tax Act, 1961 which is highly injudicious, unwarranted, against the facts of the case and bad at law.”*

3. Assessment u/s 153A of the Act, was completed vide order dated 28.12.2011 at total income of Rs. 9,81,360/- as against the returned income of Rs. 6,31,360/-, after making the addition of Rs. 3,50,000/-, on account of unexplained cash credits. The penalty proceedings u/s 271(l)(c) of the Act, were initiated for concealing the particular of income. Aggrieved by the above addition, the assessee filed an appeal before the CIT(A) and vide combined order dated 31.12.2013 in Appeal No. 310 311/11-12/995 to 996, confirmed the above addition. Subsequently, the Assessing Officer imposed the minimum concealment penalty u/s 271(l)(c) the Act, of Rs. 1,07,100/- @ 100% of tax sought to be evaded, vide order d 03.3.2015, in respect of the addition of Rs. 3,50,000/-, on account of unexplained cash credits.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR filed an adjournment application whereby stating that the quantum appeal has been remanded back to the file of the CIT(A) vide order dated 4/5/2018 by the Tribunal which is pending and hence the appeal may be adjourned.

6. The Ld. DR submitted that since the quantum appeal is remanded back to the file of the CIT(A). This appeal becomes in fructuous as the penalty is inconsonance.

7. We have heard both the parties and perused the material available on

record. The Tribunal in quantum appeal for Assessment Year 2007-08 in ITA No. 3786/Del/2014. The Tribunal held that:-

*“ Hence, we deem it expedient in the interest of justice to restore the matter back to the file of Ld.CIT(A) to decide the appeal of the assessee afresh after making proper verification of the exact situation regarding filing of return u/s 139 and the date on which it was filed.”*

Thus, it will be appropriate to remand back this issue of penalty to the file of the CIT(A) itself as it is the consequential proceedings to the actual assessment proceedings. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice. The appeal of the assessee is partly allowed for statistical purpose.

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

**Order pronounced in the Open Court on this 08<sup>th</sup> Day of October, 2021**

**Sd/-  
(B. R. R. KUMAR)  
ACCOUNTANT MEMBER**

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

Dated: 08/10/2021  
R. Naheed

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT NEW DELHI

