

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "F" BENCH: NEW DELHI**

(THROUGH VIDEO CONFERENCING)

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &
SHRI O.P.KANT, ACCOUNTANT MEMBER**

**ITA No.2052/Del/2018
Assessment Year : 2005-06**

Randeep Investment Pvt.Ltd., C/o-O.P.Sapra & Associates, Advocates, C-763, New Friends Colony, New Delhi-110025. PAN-AACCR0988D	vs	ITO, Ward-21(1), New Delhi.
APPELLANT		RESPONDENT
Appellant by	Sh. Sandeep Sapra, Adv.	
Respondent by	Sh. Rohit Anand, Sr.DR	
Date of Hearing	05.10.2021	
Date of Pronouncement	21.10.2021	

ORDER

PER KUL BHARAT, JM :

This appeal filed by the assessee for the assessment year 2005-06 is directed against the order of Ld. CIT(A)-XXV, New Delhi dated 30.01.2018.

The assessee has raised following grounds of appeal:-

- 1. "That on the facts and circumstances of the case, the penalty of Rs.9,24,150/- levied u/s 271(1)(c) of I.T. Act is illegal on the preliminary ground that there is complete non-application of mind on the part of the AO as penalty was initiated for furnishing inaccurate particulars of income while the penalty has been levied for concealment of income.*
- 2. That the Ld. CIT(A) has erred on facts and under the law in confirming the penalty of Rs.9,24,150/- levied by the AO under section 271 (1)(c) of I.T. Act inter alia because:*

a) *The appellant had neither concealed any income nor had furnished inaccurate particulars of its income.*

b) *It is not a fit case for imposition of penalty both under the substantial provisions and the Explanation thereto.*

At any rate, without prejudice, the penalty as levied/confirmed is very excessive.

3. *That the appellant reserves its right to add, amend/modify the grounds of appeal.”*

2. At the outset, Ld. Counsel for the assessee submitted that the present appeal pertains to penalty of Rs.9,24,150/- levied u/s 271(1)(c) of the Income Tax Act, 1961 (“the Act”). He contended that the assessee’s appeal against the assessment order u/s 147/143(3) of the Act in ITA No.4991/Del/2014 was allowed by the Tribunal vide its order dated 06.07.2018 in which the assessment order had been quashed. The Revenue’s appeal in ITA No.4853/Del/2014 on merit was also dismissed. He therefore, contended that since the quantum has already been deleted, penalty would not survive.

3. Per contra, Ld. Sr. DR supported the orders of the authorities below.

4. We have heard the rival contentions and perused the material available on record and gone through the orders of the authorities below. The issue involved in this appeal is related to levy of penalty u/s 271(1)(c) of the Act by the Assessing Officer. It is stated by Ld. Counsel for the assessee that the assessment order dated 28.03.2013 whereby the penalty proceedings were initiated, has been quashed by the Tribunal in ITA

No.4991/Del/2014 vide consolidated order dated 06.07.2018. Further, it is pointed out that the additions have also been deleted, therefore, penalty would not survive. The Revenue has not disputed the fact that the addition which was the basis of levy of penalty has been deleted. Therefore, we hereby direct the Assessing Officer to delete the impugned penalty. The grounds raised by the assessee in this appeal are allowed.

5. In the result, the appeal of the assessee is allowed.

Above decision was pronounced on conclusion of Virtual Hearing in the presence of both the parties on 21st October, 2021.

Sd/-

(O.P.KANT)
ACCOUNTANT MEMBER

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

Amit Kumar

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI