

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

**(THROUGH VIDEO CONFERENCE)**

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER  
And  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**ITA No.2759/Del./2016  
ASSESSMENT YEAR : 2010-11**

R.K.WEAVING AND INDUSTRIES MEHRA & CO., CHARTERED ACCOUNTANTS , 7, RAJESHWARI PALACE, NEAR COMMISSIONER RESIDENCE, CIVIL LINES, MEERUT- 250 001 (PAN :AACFR8404P)	Vs.	ITO WARD 2(2), MEERUT
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(APPELLANT)

(RESPONDENT)

**ASSESSEE BY : Shri Chander Mehra, CA  
REVENUE BY : Ms Suman Malik, Sr. DR**

**Date of Hearing : 23.11.2021  
Date of Order : 25.11.2021**

**ORDER**

**PER KULDIP SINGH, JUDICIAL MEMBER :**

Appellant R.K.WEAVING AND INDUSTRIES, Meerut (hereinafter referred to as 'the Assessee'), by filing the present appeal sought to set aside the impugned order dated 07.03.2016 passed by the Commissioner of Income-tax (Appeals)- Meerut, qua the assessment year 2010-11 on the grounds inter alia that :-

*“1. That on the facts and circumstances of the case the learned Commissioner of Income Tax (Appeals), Meerut erred in law by confirming penalty u/s 271(1)(c) of the IT Act, 1961 for the additions u/s 68 of the IT Act, 1961 which is against the principles of law and is denial of justice to the aggrieved assessee thus the order of Ld. Commisisoner of Income Tax (appeals) needs to be quashed.*

*2. The assessee reserves all rights to add/modify any of the grounds of appeal for the sake of justice.”*

2. Briefly stated the facts necessary for adjudication of the controversy at hand are : on the basis of assessment framed u/s 144 of the Act at the total income of Rs. 1,48,20,250/- as against nil income declared by the assessee, penalty proceedings have been initiated u/s 271(1)(c) of the Act.

3. Declining the contention raised by the assessee, AO levied the penalty to the tune of Rs. 62,26,180/- @ 100% of the tax sought to be evaded u/s 271(1)(c) of the Act.

4. Assessee carried the matter before Ld. CIT(A) by way of filing the appeal who has given part relief by partly allowing the appeal. Feeling aggrieved, the assessee has come up before the Tribunal by way of filing the appeal.

5. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the

facts and circumstances of the case.

6. At the very outset, it is brought to our notice by the Ld. AR for the assessee that the quantum order passed by Ld. CIT(A) in assessee's case has been set aside by the co-ordinate bench of Tribunal in ITA no. 2227/Del/2016 for A.Y. 2010-11 vide order dated 19.02.2020 to decide afresh and requested to set aside the present impugned order to the AO. This factual position has not been controverted by Ld. DR for the revenue.

7. We have perused the order dated 17.02.2020 (supra) passed by co-ordinate bench of Tribunal whereby issue has been set aside to the file of ld. CIT(A) to decide afresh. When quantum has not yet been decided present appeal being consequential to the quantum proceeding is also liable to be set aside to the file of Ld. CIT(A) to decide afresh in accordance with quantum proceedings. Consequently, the appeal filed by the assessee is allowed for statistical purposes.

**Order pronounced in open court on this 25<sup>th</sup> day of November, 2021.**

**Sd/-**

**Sd/-**

**(PRASHANT MAHARISHI)**  
**ACCOUNTANT MEMBER**

Dated the 25<sup>th</sup> day of November, 2021  
Binita

**(KULDIP SINGH)**  
**JUDICIAL MEMBER**

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- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT
- 5.CIT(ITAT), New Delhi.

AR, ITAT  
NEW DELHI.