

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'G' BENCH,
NEW DELHI (THROUGH VIDEO CONFERENCING]

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI AMIT SHUKLA, JUDICIAL MEMBER

ITA No. 6099/DEL/2018 [A.Y 2013-14]

Total Synergy Consulting Pvt Ltd
S-85, 2nd Floor, Greater Kailash-II
F -11, Green Park Extension
New Delhi

Vs.

The I.T.O
Ward -25(3)
New Delhi

PAN: AAAC 3586 D
(Applicant)

(Respondent)

Assessee By : Shri V.P. Bansal, CA

Department By : Shri Umesh Takyar, Sr. DR

Date of Hearing : 13.12.2021

Date of Pronouncement : 13.12.2021

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-

This appeal by the assessee is preferred against the order of the
CIT[A]- 9, New Delhi dated 03.08.2018 pertaining to Assessment Year
2013-14.

2. The solitary grievance of the assessee is that the ld. CIT(A) erred in confirming the penalty of Rs. 12,71,389/- levied u/s 271(1)(c) of the Income-tax Act, 1961 [hereinafter referred to as 'The Act'].

3. The roots for levy of penalty lie in the assessment order dated 28.03.2016 framed u/s 143(3) of the Act.

4. During the course of scrutiny assessment proceedings, the Assessing Officer observed that the assessee company has claimed exemption u/s 10 of the Act amounting to Rs. 41,14,430/-. The assessee was asked to justify its claim of exemption.

5. The assessee filed a detailed reply and submitted calculation of exempt income of Rs. 41,14,430/- alongwith copies of agreement with various parties. Details furnished by the assessee were examined in light of provisions of Section 10 of the Act and after verification, the Assessing Officer was of the firm belief that the assessee is not eligible for any

exemption u/s 10(8A) of the Act and added back Rs. 41,14,430/- and initiated penalty proceedings accordingly.

6. Penalty was levied by the Assessing Officer who was of the firm belief that the assessee has willfully furnished inaccurate particulars of its income. Penalty so levied was confirmed by the Id. CIT(A).

7. Before us, the Id. counsel for the assessee vehemently stated that exemption was claimed under bonafide belief that the assessee is eligible for exemption and merely because exemption was denied by the Assessing Officer does not prove any willful furnishing of inaccurate particulars of income.

8. Per contra, the Id. DR strongly supported the findings of the Assessing Officer.

9. We have carefully considered the orders of the authorities below. We find that the assessee company claimed the income as exempt received from Asian Development Bank and World Bank. On the basis of certificates issued by Asian Development Bank and World Bank, the assessee was under bonafide belief that it is eligible for exemption u/s 10 of the Act and, accordingly, claimed the same.

10. When confronted with legal principles, the assessee did not prefer any appeal before the appellate authorities in respect of denial of exemption by the Assessing Officer.

11. In our considered opinion, wrong interpretation of relevant section would not amount to willful furnishing of inaccurate particulars of income. As the assessee had been able to explain the reasons and cause for income was claimed as exempt and the said reasons and cause was bonafide and it cannot be the case of the Revenue that all material facts and particulars were not placed before the Assessing Officer.

12. Considering the facts of the case in totality in light of the ratio laid down by the Hon'ble Supreme Court in the case of Reliance Petro Chemical Products 322 ITR 158, we direct the Assessing Officer to delete the penalty so levied.

13. In the result, the appeal of the assessee in ITA No. 5233/DEL/2018 is allowed.

The order is pronounced in the open court on 13.12.2021 in the presence of both the representatives.

Sd/-

**[AMIT SHUKLA]
JUDICIAL MEMBER**

Sd/-

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

Dated: 13th December, 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	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	