

**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH 'SMC', LUCKNOW  
(THROUGH VIRTUAL HEARING)**

**BEFORE SHRI T. S. KAPOOR, ACCOUNTANT MEMBER**

I.T.A. No.29/Lkw/2021  
Assessment year:2010-11

Shri Ravi Mishra, K-339, Katra, Barabanki. PAN:ARTPM9140P (Appellant)	Vs.	Income Tax Officer, Range-5(5), Lucknow. (Respondent)
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Appellant by	Shri Shubham Rastogi, C.A.
Respondent by	Shri Harish Gidwani, D.R.
Date of hearing	11/10/2021
Date of pronouncement	28/12/2021

**ORDER**

This is an appeal filed by the assessee against the order of learned CIT(A)-2, Lucknow dated 14/08/2020 pertaining to assessment year 2010-2011.

2. At the outset, Learned counsel for the assessee invited our attention to the fact that there has been a delay of 154 days in filing the appeal and the reason for the delay is that the father of the assessee was suffering from severe old age illness and the assessee was busy in his treatment and there were certain corona symptoms also and in view of the medical problem of the father, the assessee could not open the e-profile portal and

therefore, was not aware of the ex-parte order passed by learned CIT(A). In the petition for condonation of delay, the assessee has also mentioned that the assessee did not receive the copy of the order from the office of learned CIT(A) till the filing of this affidavit for condonation of delay. The petition further states that on pressing the demand by the Assessing Officer, he came to know about the order of learned CIT(A) and therefore, after downloading the same, the appeal has been filed. In view of these facts and circumstances, it was prayed that the delay in filing the appeal may be condoned. Learned D. R. did not object to the petition for condonation of delay and finding the reason of delay plausible, the delay was condoned and the assessee was directed to proceed with his arguments.

3. Learned counsel for the assessee submitted that this appeal relates to the imposition of penalty u/s 271(1)(c) of the Act which was imposed by the Assessing Officer for the additions made by the Assessing Officer and upheld by learned CIT(A) but which were deleted by the Tribunal and in this respect our attention was invited to pages 1 & 2 of the paper book where the copy of order of the Tribunal deleting the addition was placed and therefore, it was submitted that since the addition has been deleted by the Tribunal therefore, the penalty imposed needs to be deleted.

4. Learned D. R. fairly agreed that the addition has been deleted by the order of the Tribunal in I.T.A. No.524/Lkw/2018 vide order dated 20/11/2018.

5. I have heard the rival parties and have gone through the material placed on record. I find that the assessment was completed vide order dated 15/02/2016 and an addition of Rs.8,65,179/- was made which was upheld by learned CIT(A). However, the Tribunal vide order dated

20/11/2018 deleted the same and therefore, the penalty sustained by learned CIT(A) does not survive and is deleted.

6. In the result, the appeal of the assessee stands allowed.

(Order pronounced in the open court on 28/12/2021)

**Sd/.**  
**( T. S. KAPOOR )**  
**Accountant Member**

Dated:28/12/2021

\*Singh

**Copy of the order forwarded to :**

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. The CIT(A)
5. D.R., I.T.A.T., Lucknow