

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : G : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER  
AND  
SHRI N.K. CHOUDHRY, JUDICIAL MEMBER

ITA No.677/Del/2019  
Assessment Year: 2012-13

Sarva Haryana Gramin Bank, Vs ACIT,  
SHGB House, Plot No.1, Rohtak Circle,  
Sector-3, Rohtak, Rohtak.  
Haryana.

PAN: AAKAS1464M

(Appellant)

(Respondent)

Assessee by : Shri Vivek Gupta, Advocate  
Revenue by : Smt. Parmita Biswas, CIT, DR  
Date of Hearing : 24.01.2021  
Date of Pronouncement : 24.01.2022

ORDER

PER R.K. PANDA, AM:

This appeal filed by the assessee is directed against the order dated 30.11.2018 of the CIT(A), Rohtak, relating to assessment year 2012-13.

2. The grounds of appeal raised by the assessee are as under:-

01. That on the facts and circumstances of the case and provisions of the law, the order u/s 271(1)(c) dated 30/03/2017 of the Ld AO and confirmed by the Ld. CIT(A), being passed in the name of the non-existence assessee, is void ab initio and therefore the same needs to be quashed.

2. That without prejudice to ground no 1 above and on the facts and circumstances of the case and provisions of the law, Ld AO as well as Ld CIT(A) erred in levying/ confirming the penalty under action 271(1)(c) despite of existence of non curable defects in issuance of notice under section 271(1)(c) by the Ld AO.

3. That without prejudice to ground no 1 and 2 above and on the facts and circumstances of the case & provisions of the law, the Ld CIT(A) erred in sustaining the penalty under section 271(1)(c) in respect of Rs. 20,39,000/- towards provision for fraud cases.ö

3. The ld. counsel for the assessee, at the outset, filed a copy of the order of the Tribunal in assessee's own case in quantum appeal vide ITA No.1073/Del/2016, order dated 28<sup>th</sup> August, 2020 for AY 2012-13 and submitted that the Tribunal has quashed the assessment, therefore, the penalty does not survive. He accordingly submitted that the grounds raised by the assessee should be allowed.

4. The ld. DR, on the other hand, fairly conceded that the Tribunal has quashed the assessment.

5. After hearing both the sides, we find, the Tribunal in assessee's own case vide ITA No.1073/Del/2016, order dated 28<sup>th</sup> August, 2020, has quashed the assessment. Therefore, the penalty does not survive. Accordingly, the grounds raised by the assessee are allowed.

6. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 24.01.2022.

Sd/-

(N.K. CHOUDHRY)  
JUDICIAL MEMBER

Dated: 24<sup>th</sup> January, 2022.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Sd/-

(R.K. PANDA)  
ACCOUNTANT MEMBER

Asstt. Registrar, ITAT, New Delhi