

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'B' NEW DELHI**

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

**I.T.A. No. 2053/DEL/2019 (A.Y 2011-12)  
(THROUGH VIDEO CONFERENCING)**

Deepak Garg A-3/23 PaschimVihar, New Delhi AKSPG8672Q <b>(APPELLANT)</b>	Vs	ITO Ward-41(3), New Delhi  <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Sh. Lalit Mohan, CA</b>
<b>Respondent by</b>	<b>Sh. Harpal Singh Kharb, Sr. DR</b>

<b>Date of Hearing</b>	<b>06.01.2022</b>
<b>Date of Pronouncement</b>	<b>31.01.2022</b>

**ORDER**

**PER N. K. CHOUDHRY, JM**

This appeal has been filed by the Assessee against the order dated 15/01/2019 impugned herein passed by the Ld. Commissioner of Income Tax (A) -14, New Delhi { in short 'Ld. Commissioner'} for the Assessment Year 2012-13, whereby the Ld. Commissioner confirmed the order of Ld. A.O levying penalty u/s 271(1)(c) of the Income Tax Act (in short 'the Act') .

**2.** In this case the original e-return was filed by the Assessee on 13/6/2012 by declaring total income of Rs. 4,87,370/- and subsequently the same was revised on dated 12/2/2013 by declaring total income of Rs. 4,94,580/- by giving reason for revising the ITR that discrepancy has been occurred in purchase figure while e-filing the original ITR.

**2.1** Later on the case of the Assessee was selected for scrutiny under CASS and statutory notices u/s 143(2) and 142(1) of the act were issued. After hearing the Assessee and considering the details and documents produced by the Assessee, the A.O assessed the total income of the Assessee to the tune of Rs. 64,53,540/- and also initiated penalty proceedings u/s 271(1)(c) for concealment and for furnishing inaccurate particulars of income and ultimately levied the penalty of Rs. 12,03,983/- against which the Assessee preferred first Appeal before the CIT(A)-14, New Delhi who vide impugned order 15/11/2019 dismissed the appeal filed by the Assessee by observing that the Assessee has furnished inaccurate particulars of income which deemed as concealment under Explanation 1 to Section 271(1)(c) of Act as full material facts were not disclosed in the audited accounts and return of income and Assessee's explanation has also not been established as bonafide. Against the impugned order the Assessee is in appeal before us.

**3.** Heard the Parties and perused the material available on record. It is pertinent to note that against the order passed by Ld. A.O u/s 143(3) of IT Act, quantum appeal No. 26/15/16/Del/2016-17 was preferred before CIT(A)-14, New Delhi. The Ld.CIT(A) vide Order dated 24/3/2017,

has allowed the said appeal by deleting all the addition made by A.O. and the Revenue Department has not preferred any appeal against the said order and therefore the same has attained finality. It is well settled law that once the additions made by the A.O have been deleted then consequential to the same, entire penalty proceedings would vitiate. Therefore, considering the peculiar fact and circumstances of the case, we are inclined to set aside the impugned order under challenge passed by the Ld. Commissioner, hence ordered accordingly.

4. In the result, the appeal of the Assessee is allowed.

**Order pronounced in the Open Court on 31/01/2022**

**-Sd/-**  
**(R. K. PANDA)**  
**ACCOUNTANT MEMBER**

**-Sd/-**  
**(N. K. CHOUDHRY)**  
**JUDICIAL MEMBER**

Dated : 31/01/2022

*R. Naheed \**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI