

**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. 6256/DEL/2017 (A.Y 2012-13)
(THROUGH VIDEO CONFERENCING)**

Delfab Global Pvt. Ltd. Plot No. 308, UdyogVihar, Phase-VI, Sector-37, Gurgaon Haryana AABCF7458H (APPELLANT)	Vs	ITO Ward-1(4), Gurgaon (RESPONDENT)
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Appellant by	None
Respondent by	Sh. Harpal Singh Kharb, Sr. DR

Date of Hearing	06.01.2022
Date of Pronouncement	06.01.2022

ORDER

PER N.K. CHOUDHARY, JM

The present appeal is preferred by the Assessee against the order dated 10/11/2016 impugned passed by CIT-(A), Gurgaon in Appeal No. 264/15-16 of the Assessment Year 2012-13, wherein the Ld. CIT(A) has upheld the order of the AO levying penalty u/s 271(1)(c) of Income Tax Act 1961 ('Act' for short).

2. None appeared for the Assessee. Though notices for hearing on dated 07.06.2021 18.8.2021 02.11.2021 and 06.01.2021, were issued by the Registry to the Assessee at the declared address in Form No. 36, however the said notices returned back by postal department with endorsement "LEFT", resultantly the Assessee could not be served, hence we deem it appropriate to decide the appeal on the basis of material available on record and after hearing the Ld. DR.

3. The brief facts of the case are that, the A.O. vide Assessment order dated 10/3/2015 completed the assessment u/s 143(3) of the Act by determining the loss of Rs. 6,23,818/- as against claimed loss of Rs. 11,86,348/- by the Assessee. The Assessee has also claimed depreciation u/s 32 (i)(ii) of the Act to the tune of Rs. 11,25,000/- but the A.O found that correct depreciation has to be Rs. 5,62,500/- only. The Assessee claimed before the A.O that, the depreciation has wrongly been claimed for 365 days instead of 180 days and therefore surrendered the difference in favour of the Revenue and consequently, returned loss of Rs. 11,86,348/- was reduced to Rs. 6,23,848/-. However the A.O while passing the Assessment order, opined that the Assessee had furnished inaccurate particulars of income to the extent of Rs. 5,62,500/-.

4. The proceedings of penalty were initiated against the Assessee u/s 271 (1)(c) of the Act and a show cause notice was issued to the Assessee as to why an order imposing penalty should not be made u/s 271 (1)(c) of Income Tax Act, in response to which the Assessee filed a reply on 24/4/2015 stating as under:-

“The Assessee has claimed depreciation of Rs. 1125000.00 instead of Rs. 562500.00 by oversight during the year under consideration claiming depreciation for the full year instead of 180 days and the same has been surrendered by the Assessee in favour of the Revenue. Therefore, there was no intention of the Assessee to conceal income or furnish inaccurate particulars of income within the meaning of Section 271(1)(c) of the Income Tax Act, 1961 to evade taxes.”

4.1. The above reply given by the Assessee was found not satisfactory, consequently the A.O. passed an order under Section 271(1)(a) of the Act on 21/09/2015 by imposing the penalty of Rs. 1,73,813/- which is 100% of tax being evaded.

5. Aggrieved by the said order of penalty dated 21/9/2015, the Assessee has preferred an appeal before CIT(A), who after considering the grounds urged thereon, dismissed the appeal vide Order impugned, against which the Assessee has preferred the present Appeal.

6. Heard the Ld. DR, perused the orders passed by the Authorities below. We find that the Assessee company has claimed the depreciation of Rs. 11,25,000/- u/s 32 (i)(ii) of the Act in the original ITR. On perusal of the depreciation chart furnished by the Assessee the AO found that the Assessee is eligible for the depreciation of Rs. 5,62,500/- instead of Rs. 11,25,000/-. Once the AO pointed out to the

Assessee regarding excess depreciation claimed, the Assessee replied that "depreciation was wrongly claimed for 365 days instead of 180 days" and therefore surrendered the same in favour of the revenue. The A.O. though considered the claim of the Assessee, however could not get satisfied and ultimately vide order 21/09/2015 imposed the penalty of Rs. 1,73,813/- under Section 271(1)(a) of the Act for furnishing of inaccurate particular of income. The CIT (A) confirmed the said Penalty Order by way of order impugned before us.

8. The Assessee due to non-appearance before the Ld. CIT(A) and us as well, failed to substantiate the grounds urged and also failed to controvert the findings of the authorities below. Even from the orders passed by the authorities below, we could not find any reason to interfere with the impugned Order, thus we are inclined not to interfere with the impugned order. Consequently the appeal of the Assessee deserves dismissal.

9. In the result, the appeal of the Assessee is dismissed.

Order pronounced in the Open Court on 06/01/2022.

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

-Sd/-
(N. K. CHOUDHARY)
JUDICIAL MEMBER

Dated : 06/01/2022

*R. Naheed **

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT NEW DELHI