

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI

BEFORESHRI R. K. PANDA, ACCOUNTANT MEMBER
AND
SHRI N. K. CHOUDHRY, JUDICIAL MEMBER
(Through Video Conferencing)

ITA No. 106/Del/2018
(Assessment Year: 2011-12)

Adarsh Public School, B-193, Sector-52, Noida PAN: AAATA6510D	Vs.	JCIT, Range-1, Noida
(Appellant)		(Respondent)

Assessee by :	Shri K. C. Singhal, Adv
Revenue by:	Shri Manu Chourasia, Sr. DR
Date of Hearing	03/02/2022
Date of pronouncement	/02/2022

O R D E R

PER N.K. CHOUDHRY, J. M.:

1. The present appeal is preferred by the Assessee/Appellant herein against the order dated 30.03.2017 impugned herein passed by CIT-(A)-1, Noida (hereinafter called in short as the "Id. Commissioner"), u/s 250 of the Income-tax Act, 1961 (in short "the Act") for Assessment Year 2011-12, whereby the Id. Commissioner imposed the penalty u/s 271(1)(c) of the Act, to the tune of Rs. 1,04,85,689/- @ 100% of the quantum of income determined by him.

2. In this case, assessment order dated 28.01.2014 was passed by the AO u/s 143(3) of the Act for the Assessment Year under consideration and total income of the Assessee was determined at Rs. 6,63,290/- as against the returned income of Rs. Nil.

3. Against the said assessment order, the Assessee preferred first appeal before the Id. Commissioner who vide order dated 30.03.2017 in appeal, enhanced the income of the Assessee to the tune of Rs. 1,04,85,689/- which was the gross receipt of the Assessee for the Assessment Year under consideration .

4. The Id. Commissioner also initiated the penalty proceedings u/s 271(1)(c) for furnishing of inaccurate particulars of income and concealment of particulars of income and ultimately while passing impugned order u/s 271(1)(c) of the Act, imposed the penalty of Rs. 1,04,85,689/- @ 100% of the quantum of income allegedly sought to be evaded as determined by him.

5. Aggrieved against the impugned order, the Assessee has preferred the instant appeal.

6. Heard the parties and perused the material available on record. At the outset, it was claimed by the Id.AR and not refuted by the Ld. DR that the Hon'ble Tribunal vide its order dated 31.03.2018 has allowed the Assessee's quantum appeal no. ITA No. 3782/Del/2017 against the order dated 30.03.2017 passed by the Id.Commissioner u/s 250 of the Act and deleted the addition on the basis of which the penalty was imposed by the Ld. Commissioner.

Since the addition on the basis of which penalty was levied, has already been deleted, the penalty cannot survive. Consequently, the penalty is deleted.

7. In the result, appeal of the Assessee stands allowed.

Order pronounced in the open court on 03/02/2022.

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

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

Dated: 03/02/2022
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New
Delhi