

**IN THE INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "B": NEW DELHI]**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER
(Through Video Conferencing)**

ITA. No. 6671/Del/2013
(Assessment Year: 2003-04)

Shri Dhiraj Jain, C/o. Prakash K. Prakash, B-1, Sagar Apartments, 6 – Tilak Marg, New Delhi – 110 001. PAN: AADPJ4043R	Vs.	Income Tax Officer, Central Circle : 3, New Delhi.
(Appellant)		(Respondent)

Assessee by :	Ms. Suman Jain, C. A.;
Department by:	Shri Rajesh Kumar Dhanesta, Sr. D. R.;
Date of Hearing :	10/03/2022
Date of pronouncement :	10/03/2022

ORDER

PER AMIT SHUKLA, J. M.

1. The aforesaid appeal has been filed by the assessee against the impugned order dated 11.10.2013 passed by the ld. Commissioner of Income Tax (Appeals)-IV, New Delhi [hereinafter referred to CIT (Appeals)], in relation to the penalty proceedings

under Section 271(1)(c) of the Income Tax Act, 1961 (the Act) for assessment year 2003-04.

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

“1. That the CIT (Appeals) is erred under the law while confirming the order of A.O., imposing the penalty of Rs.58,718/- under Section 271(1)(c) of the Act for filing inaccurate particulars of income and its concealment.

2. That any other grounds of appeal may be added / deleted or amended at the time of hearing. “

3. Brief facts of the case are that penalty of Rs.58,718/- was levied on the assessee on account of interest paid to entities. The Assessing Officer held that it is from various funds received from income and for not making investment in the interest bearing loan and advances and, therefore, interest paid to above persons was not allowable as deduction.

4. Before us, the ld. Counsel submitted that in the quantum proceedings the Tribunal in ITA. No. 4710 (Del) of 2016 have quashed the assessment. The entire basis for the levy of penalty has no legs to stand.

5. On the other hand, the DR relied upon the order of the CIT (Appeals).

6. On perusal of the material placed before us and Tribunal's order in the quantum proceedings in ITA. No. 4710 (Del) of 2016, we find that the Tribunal has quashed the proceedings under Section 153C of the Act as the addition was not based on any

incriminating material. Thus, as the assessment has been quashed, there is no basis for levy of penalty. Accordingly, penalty levied by the Assessing Officer and confirmed by the CIT (Appeals) is quashed.

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

Order pronounced in the open court on: **10/03/2022**.

Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Dated : 10/03/2022.

MEHTA

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

ASSISTANT REGISTRAR
ITAT, New Delhi.

Date of dictation	10.03.2022
Date on which the typed draft is placed before the dictating member	10.03.2022
Date on which the typed draft is placed before the other member	10.03.2022
Date on which the approved draft comes to the Sr.	10.03.2022

PS/ PS	
Date on which the fair order is placed before the dictating member for pronouncement	10.03.2022
Date on which the fair order comes back to the Sr. PS/ PS	10.03.2022
Date on which the final order is uploaded on the website of OPA	10.03.2022
date on which the file goes to the Bench Clerk	10.03.2022
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	