

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No.7014/Del/2018
Assessment Year: 2014-15

SFS Fire & Security P. Ltd. Plot No.293, Khear Singh Estate, Plot No.293, West End Marg, Said –Ul- Ajaib, New Delhi-110030 PAN No.AAMCS9751P	Vs	DCIT Circle -23 (2) New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	None
Respondent by	Sh. Umesh Takyar, Sr. DR

Date of hearing:	29/03/2022
Date of Pronouncement:	29/03/2022

ORDER

PER N. K. BILLAIYA, AM:

This appeal filed by the assessee is preferred against the order of the CIT(A)-8, New Delhi dated 21.08.2018 for A.Y.2014-15.

2. The solitary grievance of the assessee is that the CIT(A) erred in confirming the penalty of Rs.126536/- levied by the AO u/s. 271 (1) (c) of the Act.

3. The roots for the levy of penalty lie in the assessment order dated 28.10.2016 framed u/s. 143 (3) of the Act.

4. During the course of the scrutiny assessment proceedings and on verification of ledger accounts and bills of miscellaneous expenses the AO noticed that the assessee has made a payment of Rs.3.90 lacs in cash against a single voucher No.3862 on 19.03.2014. The assessee was asked to show cause why the same should not be disallowed as the payment has been made in contravention to the provision of section 40 A (3) of the Act. On receiving no plausible reply the AO disallowed Rs. 3.90 lacs and separately initiated penalty proceedings for furnishing of inaccurate particulars of income and concealment of income.

5. During the course of the penalty proceedings the assessee contended that the disallowance has been made on technical reasons and pointed out that breach in question was technical/ venial in nature and, therefore, no penalty should be levied. It was further explained that the amount of Rs. 3.90 lacs was withdrawn from the bank for the various payments which were debited under the head miscellaneous expenditure.

6. The reply of the assessee did not find favour with the AO who proceeded by levying penalty of Rs.126536/-.

7. The assessee carried the matter before the CIT(A) but without any success.

8. None appeared on behalf of the assessee inspite of the notice we decided to proceed exparte.

9. The DR was heard at length. The DR placed strongly reliance on the order of the AO/ CIT(A).

10. We have carefully perused the orders of the authorities below. The undisputed fact is that the assessee has made payments to various labours by a single voucher. It is an admitted fact that the assessee is engaged in the business of supplies of Fire Safety Systems to customers of who are into business of energy sector. We find that the AO raised query vide order sheet entry dated 24.10.16 and framed the assessment order on 28.10.2016. The assessee could not collect the vouchers from its various sites where the expenses were incurred on account of labour charges, purchase of material etc. We find that the nature of assessee's business is labour oriented work, purchase of consumable and other petty expenses at the sites where the jobs are executed. For execution of said jobs cash amount is required which is made available from the head office to the different sites for need based requirement which is commercial expediency.

11. In our understanding of the facts we are of the considered opinion that the assessee has neither filed inaccurate particulars nor has concealed income. We, therefore, do not find this to be a fit case for the levy of penalty u/s. 271 (1) (c) of the Act. We accordingly direct the AO to delete the penalty of Rs.126536/-.

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

13. Decision announced in the open court in the presence of Ld. Sr. DR.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

NEHA

Date:-29.03.2022

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	29.03.2022
Date on which the typed draft is placed before the dictating Member	29.03.2022
Date on which the typed draft is placed before the Other member	29.03.2022
Date on which the approved draft comes to the Sr.PS/PS	29.03.2022
Date on which the fair order is placed before the Dictating Member for Pronouncement	29.03.2022
Date on which the fair order comes back to the Sr. PS/ PS	29.03.2022
Date on which the final order is uploaded on the website of ITAT	31.03.2022
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	