

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'A' NEW DLEHI**

**BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER  
AND  
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No.2119/Del/2019  
Assessment Year: 2013-14**

Anil Jindal,  
C/o RRA Taxindia, D-28,  
South Extension Part-I,  
Delhi.

vs.

DCIT, Central Circle-II,  
Delhi.

**PAN : AAOPJ9776G**  
(Appellant)

(Respondent)

Appellant by : Sh. Somil Agarwal, Adv.  
Sh. Deepesh Garg, Adv.

Respondent by: Mrs. Kirti Sandratyayan, Sr. DR

Date of hearing: 04.04.2022

Date of order : 04.04.2022

**ORDER**

**PER K. NARASIMHA CHARY, J.M.**

Aggrieved by the order dated 29/12/2018 in appeal No. 432/CIT(A)-3/GGN/2017018 passed by the learned Commissioner of Income Tax (Appeals)-3, Gurgaon ("Ld. CIT(A)") in the case of Anil Jindal ("the assessee"), for the assessment year 2013-14, assessee preferred this appeal.

2. Brief facts of the case are that the assessee is an individual and filed its return of income on 23.07.2013 declaring an income of

Rs.1,63,09,510/-. Based on a search and seizure operation on 09.05.2012, assessment u/s. 153B r.w.s. 143(3) of the Income-tax Act, 1961 ("the Act") was completed at an income of Rs.2,23,14,890/-. In the assessment proceedings, learned Assessing Officer made addition of Rs.56,55,380/- on account of unexplained jewellery and Rs.3,50,000/- on account of unexplained cash found during the course of search operation, which stood confirmed by the Id. CIT(A) in appeal filed by the assessee. Thereafter, the Assessing Officer initiated penalty proceedings u/s. 271AAA of the Act and finding the replies of assessee not satisfactory, imposed a penalty of Rs.6,00,538/- on the basis of aforesaid additions sustained by the Id. CIT(A) in the quantum appeal. Aggrieved by the penalty order, assessee filed appeal before the Id. CIT(A), which stood dismissed by the impugned order.

3. Assessee, therefore, preferred this appeal. Learned AR of the assessee, inter alia, submitted that the assessee came up in appeal No. 838/Del/2017 before the Tribunal challenging the sustenance of additions, on the basis of which the impugned penalty is imposed and the Tribunal by order dated 08.04.2021 remanded the matter back to the file of learned Assessing Officer for passing a fresh assessment order after giving opportunity to the assessee for placing supporting evidences. It is, therefore, submitted that the impugned penalty cannot be sustained.

4. Learned DR, on the other hand, relied on the orders of the authorities below and submits that once the assessee failed to explain the jewellery and cash found during the search operation, the impugned order of Id. CIT(A) does not call for any interference.

5. We have gone through the record in the light of the submissions made on either side. It is not in dispute that the issues pertaining to additions on the basis of which impugned penalty has been imposed, have been remanded back by the Tribunal in quantum appeal to the file of Assessing Officer for fresh consideration. In such circumstances, we deem it appropriate in the interest of justice to remand the present appeal pertaining to penalty, to the file of Id. Assessing Officer for fresh decision on the penalty proceedings after considering the outcome of fresh assessment. Needless to say, assessee shall be given reasonable opportunity of being heard. Accordingly, the appeal of the assessee is allowed for statistical purposes.

6. In the result, the appeal ,is allowed for statistical purposes.

**Order pronounced in the open court on 04/04/2022.**

Sd/-

Sd/-

**(R.K. PANDA)**

**ACCOUNTANT MEMBER**

Dated: 04/04/2022

'aks'

**(K. NARSIMHA CHARY)**

**JUDICIAL MEMBER**