

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

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

ITA No.2177/Del/2019
Assessment Year: 2006-07

ACIT, CC-18, New Delhi	Vs.	Sh. Braham Arenja, E-564, Greater Kailash-II, New Delhi
PAN :AADPA1953D		
(Appellant)		(Respondent)

Appellant by	Mrs. Suman Malik, Sr. DR
Respondent by	Sh. A. T. Panda, Advocate

Date of hearing	31.03.2022
Date of pronouncement	12.04.2022

ORDER

PER SAKTIJIT DEY, JM:

This appeal by the Revenue is against order dated 14.12.2018 of learned Commissioner of Income-tax (Appeals)-27, New Delhi, deleting the penalty imposed under section 271(1)(c) of the Income-tax Act, 1961 (for short 'the Act') for the assessment year 2006-07.

2. As could be seen from record, there is a delay of two days in filing the present appeal. After perusing the contents of the

application seeking condonation of delay, we are satisfied that the delay in filing the appeal is due to reasonable cause. Accordingly, we condone the delay and admit the appeal for adjudication on merits.

3. We have considered rival submissions and perused the materials on record. The factual matrix reveals, the assessee is a resident individual and had filed his return of income for the impugned assessment year declaring total income of Rs.15,03,044/-. Assessment in case of the assessee was completed under section 143(3) read with section 153A of the Act determining the total income at Rs.1,92,03,040/-, after making an addition of Rs.1,77,00,000/- towards alleged investment in cash in a property. Based on such addition, the Assessing Officer initiated proceeding for imposition of penalty under section 271(1)(c) of the Act and ultimately passed an order on 21.03.2016 imposing penalty of Rs.59,94,338/- alleging furnishing inaccurate particulars of income thereby concealing the income. Against the penalty order so passed, assessee preferred appeal before learned Commissioner (Appeals).

4. Having found that the addition made by the Assessing Officer was deleted by the Tribunal while deciding the quantum

appeal of the assessee, learned Commissioner (Appeals) deleted the penalty imposed under section 271(1)(c) of the Act. The aforesaid factual position remains uncontroverted before us. Thus, when the quantum of addition based on which penalty under section 271(1)(c) of the Act was imposed is not in existence by virtue of the order passed by the Tribunal in quantum appeal, the penalty imposed under section 271(1)(c) of the Act cannot survive.

5. Thus, in our view, learned Commissioner (Appeals) has rightly deleted the penalty imposed under section 271(1)(c) of the Act. Grounds are dismissed.

6. In the result, the appeal is dismissed.

Order pronounced in the open court on 12th April, 2022

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 12th April, 2022.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi