

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "G" : DELHI

BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND
SHRI KUL BHARAT, JUDICIAL MEMBER

ITA.No.426/Del./2017
Assessment Year 2012-13

Smt. Sneh Lata Sawhney, 6, Link Road, Jangpura Extension, New Delhi – 110 024. PAN AQKPS8457P	vs.	The Dy. CIT, Central Circle-7, New Delhi.
(Appellant)		(Respondent)

For Assessee :	Shri Rakesh Gupta, Advocate
For Revenue :	Shri H.K. Chaudhary, CIT.DR

Date of Hearing :	21.04.2022
Date of Pronouncement :	21.04.2022

ORDER

PER ANIL CHATURVEDI, A.M. :

This appeal filed by the assessee has been directed against the order of the Ld. CIT(A)-25, New Delhi in Appeal No.302/15-16/42/16-17 dated 26.10.2016 relating to the A.Y. 2012-13.

2. Though the assessee has raised various grounds of appeal, but, all grounds relates to levy of penalty under section 271(1)(c) of the I.T. Act, 1961 by the A.O. and sustained by the Ld. CIT(A).

3. During the course of hearing, the Learned Counsel for the Assessee, at the outset, submitted that the Tribunal vide order dated 17.01.2020 in ITA.No.419/Del./2017 has allowed the appeal of the assessee by quashing the assessment order since the notice under section 143(2) of the I.T. Act, 1961 has been issued to the assessee beyond the prescribed period under the Act. Therefore, the Learned Counsel for the Assessee submitted that the very basis of imposing the penalty stands collapsed and there is no reason to sustain the penalty under consideration.

4. The Ld. D.R. on the other hand, relied on the orders of the lower authorities.

5. We have heard the rival submissions of both the parties, perused the order of the A.O. and the Ld. CIT(A) and the order of the Tribunal dated 17.01.2020 (supra).

Admittedly, the Tribunal vide order dated 17.01.2020 allowed the appeal of the assessee by quashing the assessment proceedings. The relevant observations of the Tribunal are as under :

“7. Under the provision of section 143(2) of the Act, proviso thereunder, the notice has to be issued within six months from the end of the assessment year i.e. by 30.09.2013. The notice in the case of the assessee is issued on 15.10.2013 i.e. beyond the time prescribed under the Act. Hence, the initiation of the proceedings and the jurisdiction invoked by the Assessing Officer suffers from infirmity. Consequently, we hold that the present assessment order is bad in law as the notice u/s 143(2) of the Act was issued beyond the limit prescribed under the Act. The additional ground of appeal raised by the assessee is thus allowed. Since the assessment has been quashed in the cases, we do not adjudicate the issue raised on merits.

8. *In the result, the appeal of the assessee is allowed.”*

4.1. We find that since the quantum appeal of the assessee was allowed by the Tribunal vide order dated 17.01.2020 (supra), the penalty imposed by the A.O. and sustained by the Ld. CIT(A) does not survive. We, therefore, allow the appeal of the assessee.

5. In the result, appeal of the Assessee is allowed.

Order pronounced in the open Court on 21.04.2022 at the time of hearing of the appeal.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Sd/-
(ANIL CHATURVEDI)
ACCOUNTANT MEMBER

Delhi, Dated 21st April, 2022

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'G' Bench, Delhi
6.	Guard File.

// By Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.