

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI

BEFORESHRI R. K. PANDA, ACCOUNTANT MEMBER
AND
SHRI N. K. CHOUDHRY, JUDICIAL MEMBER

ITA No.5448/Del/2019
(Assessment Year:2010-11)

ArunDuggal,
HN-1406F, Second Floor, Gali
NO. 13, Govindpuri, Kalkaji,
New Delhi
PAN: AGUPD5708Q

(Appellant)

Vs. CIT(A)-23,
New Delhi

(Respondent)

Assessee by :	ShriKapilGoel, Ld. Adv
Revenue by:	Mr. Ishtiyaque Ahmed, Ld. CIT DR
Date of Hearing	13/04/2022
Date of pronouncement	29/04/2022

ORDER

PER N.K. CHOUDHRY, J. M.:

1. The present appeal is preferred by the Assessee/Appellantherein against the order dated 30.12.2018 impugned herein passed by CIT(A)-23, New Delhi (hereinafter called in short as the "Id. Commissioner"), u/s 250 of the Income-tax Act, 1961 (in short "the Act") for Assessment Year 2010-11, whereby the Id. Commissioner imposed the penalty u/s 271(1)(c) of the Act, to the tune of Rs. 4,30,74,854/- @ 125% of the quantum of income determined by him.

2. In this case, the assessment order dated 30.12.2017 was passed by the AO u/s 153A of the Act for the Assessment Year under consideration and total income of the Assessee was determined at 13,62,32,600/- as against the returned income of Rs.5,14,140/-.

3. Against the said assessment order, the Assessee preferred first appeal before the Id. Commissioner who vide order dated 30.12.2018 in appeal, further enhanced the income of the Assessee to the tune of Rs. 2,12,25,000/- as unexplained credit of the Assessee for the Assessment Year under consideration.

4. The Id. Commissioner also initiated the penalty proceedings u/s 271(1)(c) for furnishing of inaccurate particulars of income and concealment of particulars of income and ultimately while passing impugned order u/s 271(1)(c) of the Act, imposed the penalty of Rs. 4,30,74,854/- @ 125% of the quantum of income allegedly sought to be evaded as determined by him.

5. Aggrieved against the impugned order, the Assessee has preferred the instant appeal.

6. Heard the parties and perused the material available on record. At the outset, it was claimed by the Id. AR and not refuted by the Ld. DR that the Hon'ble Tribunal vide its order dated 19.01.2021 has allowed the Assessee's quantum appeal no. ITA No. 1819/Del/2019 against the order dated 30.12.2018 passed by the Id. Commissioner u/s 250 of the Act and deleted the addition on the basis of which the penalty was imposed by the Ld. Commissioner.

Since the addition on the basis of which penalty was levied, has already been deleted, the penalty cannot survive. Consequently, the penalty is deleted.

7. In the result, appeal of the Assessee stands allowed.

Order pronounced in the open court on 29/04/2022.

-Sd/-
(R. K. PANDA)
ACCOUNTANT MEMBER

-Sd/-
(N.K. CHOUDHRY)
JUDICIAL MEMBER

Dated:29/04/2022
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi