

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

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI N.K. CHOUDHRY, JUDICIAL MEMBER**

**ITA No. 6450/Del/2018
Assessment Year: 2013-14**

Bishan Bansal, vs. DCIT, Central Circle-II,
C/o M/s. RRA Taxindia, Gurgaon.
D-28, South Extension Part-I,
New Delhi.

PAN : AEZPS1452h
(Appellant)

(Respondent)

Appellant by : Shri Deepesh Garg, Advocate
Respondent by : Shri Sanjay Kumar, Sr. DR
Date of hearing : 02.05.2022
Date of order : 25.05.2022

ORDER

PER N.K. CHOUDHRY, J.M.

This appeal has been preferred by the Assessee against the order dated 13.07.2018, impugned herein, passed by the learned Commissioner of Income-tax (Appeals)-3, Gurgaon (in short 'Id. Commissioner') u/s. 250(6) of the Income-tax Act, 1961 (in short 'the Act') for the assessment year 2013-14.

2. The brief facts relevant for adjudication of this appeal are that a search and seizure operation was carried out on dated 09.05.2012 at the residential and office premises of M/s. SRS group of cases including the Assessee/Appellant herein. Thereafter, assessment was completed on dated 27.02.2015 u/s. 153A read with section 143(3) of the Act and the income of the Assessee was determined to the tune of Rs.17,59,123/- as against returned income of Rs.6,39,580/- and additions of Rs.10,69,543/- on account of unexplained jewellery and Rs.50,000/- on account of unexplained cash found from the Assessee during the course of search, were made to the income of the Assessee.

The said additions were challenged by the Assessee before the Id. Commissioner, who vide order dated 21.12.2016 affirmed the additions, as it appears from the impugned order.

Thereafter, the penalty to the tune of Rs.1,11,954/- was imposed u/s. 271AAA of the Act @ 10% of the undisclosed income of Rs.11,19,543/- (10,69,543 + 50,000).

The Assessee being aggrieved challenged the imposition of penalty before the Id. Commissioner, who vide impugned order dated 13.07.2018, affirmed the levy of penalty, against which the Assessee is in appeal before us.

3. Heard the parties and perused the material available on record. At the outset, it was submitted by the Id. AR that the Hon'ble ITAT vide order dated 30.01.2020 passed in ITA No. 834/Del/2017 has deleted the addition of Rs.10,69,543/- on account of jewellery found during the search operation and affirmed the addition of Rs.50,000/- on account of unexplained cash found during the course of search. The Id. DR did not refute the said factual claim of the Assessee.

4. Considering the peculiar facts and circumstances, as the major part of the additions, on the basis of which penalty was imposed and affirmed by the Id. Commissioner, has already been deleted by the Hon'ble Tribunal vide order dated 30.01.2020 referred to above, and sustained the addition to the tune of Rs.50,000/- only out of Rs.11,19,543/-, therefore, we do not find any justification and/or substantial reason to sustain the penalty at any length. Consequently, the penalty under challenge stands deleted.

5. In the result, the appeal filed by the Assessee stands allowed.

Order pronounced in the open court on 25/05/2022.

Sd/-

(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Sd/-

(N.K. CHOUDHRY)
JUDICIAL MEMBER

Dated: 25/05/2022

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