

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "G" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
AND  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

आ.अ.सं./I.T.A No.6975/Del/2019  
निर्धारणवर्ष/Assessment Year: 2010-11

Shri Satish Khandelwal, H - 87, Ashok Vihar, Phase : 1, Delhi - 110 052.	बनाम Vs.	ACIT Circle : 34 (1) New Delhi.
PAN No. AAFPK3877J		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारितकीओरसे / Assessee by :	N o n e;
राजस्वकीओरसे / Department by :	Shri Abhishek Kumar, Sr. D. R.;

सुनवाईकीतारीख/ Date of hearing :	21.06.2022
उद्घोषणाकीतारीख/Pronouncement on :	21.06.2022

**आदेश / O R D E R**

**PER C. N. PRASAD, J.M.**

This appeal is filed by the assessee against the order of Ld. Commissioner of Income Tax (Appeals)-12, New Delhi [hereinafter referred to CIT (Appeals)] dated 27.06.2019 for the Assessment Year 2010-11 in confirming the penalty levied u/s 271(1)(c) of the Income Tax Act, 1961 (the Act).

2. In spite of issue and service of notice the assessee neither appeared nor any adjournment was sought. Therefore, this appeal is disposed of on hearing the ld. DR.

3. The assessee in his grounds of appeal has raised the following grounds:-

**“1. That the penalty order deserves to be quashed since the same was passed and confirmed by both the lower authorities respectively without providing proper opportunity.**

**2. That the penalty order passed by the Ld. AO is invalid and not in accordance with the provisions of the Income Tax Act and therefore deserves to be quashed.**

**3. That under the facts and circumstances of the case, the penalty order deserves to be quashed since the penalty notice issued by the Ld. AO was illegal and penalty levied on the basis of invalid notice deserves to be quashed.**

**4. That under the facts and circumstances of the case, the penalty amounting to Rs.5,99,785/- levied by the Ld. AO and confirmed by the CIT (Appeals) is unjustified and deserves to be quashed on merits of the case.**

**5. That the appellant craves leave to add, amend, alter or withdraw any ground of appeal at the time of hearing with the permission of the Hon’ble ITAT, Delhi Bench. “**

4. In the grounds of appeal the assessee challenged the order of the ld. CIT (Appeals) in not providing adequate opportunity of being heard. It is noticed that the order of the ld. CIT (Appeals) that the ld. CIT (Appeals) provided two opportunities to the assessee which the assessee failed to appear and, therefore, the ld. CIT (Appeals) disposed of the appeal ex-parte sustaining the penalty levied under Section 271(1)(c) of the Act. In our considered view the ld. CIT (Appeals) should have allowed further more opportunity to the assessee to explain its case. Therefore, taking the totality of facts and circumstances into consideration, this appeal is

restored to the file of the ld. CIT (Appeals) for de novo adjudication after providing adequate opportunity of being heard to the assessee.

5. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 21/06/2022

Sd/-  
(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER

Sd/-  
( C. N. PRASAD )  
JUDICIAL MEMBER

Dated: 21/06/2022

*\*MEHTA\**

Copy forwarded to :

1. Appellant;
2. Respondent;
3. CIT
4. CIT (Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi.

Date of dictation	21.06.2022
Date on which the typed draft is placed before the dictating member	21.06.2022
Date on which the typed draft is placed before the other member	21.06.2022
Date on which the approved draft comes to the Sr. PS/ PS	21.06.2022
Date on which the fair order is placed before the dictating member for pronouncement	21.06.2022
Date on which the fair order comes back to the Sr. PS/ PS	21.06.2022

	Date on which the final order is uploaded on the website of ITAT	21.06.2022
	Date on which the file goes to the Bench Clerk	21.06.2022
	Date on which the file goes to the Head Clerk	
	The date on which the file goes to the Assistant Registrar for signature on the order	
	Date of dispatch of the order	