

IN THE INCOME TAX APPELLATE TRIBUNAL  
[ DELHI BENCH "G" : DELHI ]

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
A N D  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

आ.अ.सं./I.T.A No. 8893/Del/2019

निर्धारणवर्ष /Assessment Year: 2013-14

Shri Sandeep Taneja, 473 - DPS Society, Plot No. 16, Sector : 4, Dwarka, New Delhi - 110 075.	<u>बनाम</u> Vs.	Income Tax Officer, Ward: 45 (5) New Delhi.
PAN No. ABDPT5922C		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारितकीओरसे /Assessee by :	Shri Ummed Kuntal, Advocate;
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. :

1. This appeal is filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals)-15 {hereinafter referred to CIT (Appeals)] New Delhi, dated 26.09.2019 in sustaining the penalty under

Section 271(1)(c) of the Income Tax Act, 1961 (the Act) for assessment year 2013-14.

2. At the outset, the Id. Counsel for the assessee submits that the Tribunal in ITA. No. 11/Del/2017 dated 11.10.2018 allowed the claim for exemption under Section 54 of the Act in respect of second residential property following the judgement of the Hon'ble Delhi High Court in the case of Laxman Singh Rawat. Therefore, the Id. Counsel submits that since the Tribunal deleted the disallowance made by the Assessing Officer in respect of deduction claimed under Section 54 of the Act by the assessee. The penalty levied pursuant to the disallowance made under Section 54 of the Act by the Assessing Officer will not survive.

3. The Id. DR fairly submits that the Tribunal deleted the disallowance made under Section 54 of the Act by the Assessing Officer in quantum proceedings.

4. Heard rival submissions perused the orders of the authorities below and the decision of the Tribunal in the quantum proceedings in ITA. No. 11/Del/2017 dated 11.10.2018. It is observed from the order of the Tribunal that the claim for exemption under Section 54 of the Act which was denied by the Assessing Officer was deleted by the Tribunal following the decision of the Hon'ble Delhi High Court in the case of Laxman Singh Rawat (supra). Since the disallowance made in assessment proceedings is deleted by the Tribunal the penalty levied under Section 271(1)(c) of the Act on the basis of the disallowance made in the assessment order will not survive. Hence, the penalty order dated 23.03.2018 passed under Section 271(1)(c) of the Act for the assessment year under consideration is set aside and the Assessing Officer is directed to delete the penalty.

3. In the result, appeal of the assessee is allowed.

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	