

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'F' NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
DR. BRR KUMAR, ACCOUNTANT MEMBER**

ITA No.7997/Del/2019
Assessment Year: 2011-12

ITO, Ward-54(5), New Delhi	Vs.	Roshan Lal Sharma, C-4/187, Dayanand Colony, Lajpat Nagar-4, New Delhi PIN: 1100 24
PAN :AUQPS1473F		
(Appellant)		(Respondent)

Appellant by	Shri Ratnesh Kumar Gupta, CA
Assessee by	Ms. Indu Sen, SR. DR

Date of hearing	28.06.2022
Date of pronouncement	28.06.2022

ORDER

PER SAKTIJIT DEY, JUDICIAL MEMBER:

This is an appeal by the assessee against order dated 18.07.2019 of learned Commissioner (Appeals)-35, New Delhi, deleting the penalty imposed of Rs.53,72,061 under Section 271(1)(c) of the Income-Tax Act, 1961 for the assessment year 2011-12.

2. At the outset, learned authorized representative appearing for the assessee submitted, the addition based on which penalty under Section 271(1)(c) of the Act was imposed stands deleted in the quantum proceedings. Thus, he submitted the penalty imposed could not have survived.

3. Learned Departmental Representative relied upon the grounds raised.

4. We have considered the rival submissions and perused material available on record.

5. On a reading of paragraph 4.1 of the impugned order of learned Commissioner (Appeals), it becomes very much clear that based on the addition made in an assessment order passed under Section 144 of the Act, the Assessing Officer proceeded to impose penalty under Section 271(1)(c) of the Act. However, while deciding assessee's appeal against the assessment order passed under Section 144 of the Act, learned Commissioner (Appeals) had deleted the additions made. No material has been brought on record by the Revenue to demonstrate that the order passed by learned Commissioner (Appeals) in the quantum proceeding has been reversed. Thus, in absence of any

subsisting addition, the penalty imposed under Section 271(1)(c) of the Act cannot survive. Therefore, we do not find any infirmity in the decision of learned Commissioner (Appeals). Ground raised is dismissed.

6. In the result, the appeal is dismissed.

Order pronounced in the open court on 28th June, 2022.

**Sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER**

**Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER**

Dated: 28th June, 2022.

Mohan Lal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi

Sl. No.	Particulars	Date
1.	Date of dictation (Order drafted through Dragon software):	28.06.2022
2.	Date on which the draft of order is placed before the Dictating Member:	28.06.2022
3.	Date on which the draft of order is placed before the other Member:	
4.	Date on which the approved draft of order comes to the Sr. PS/PS:	28 .06.2022
5.	Date of which the fair order is placed before the Dictating Member for pronouncement:	28.06.2022
6.	Date on which the final order received after having been singed/pronounced by the Members:	28 .06.2022
7.	Date on which the final order is uploaded on the website of ITAT:	30.06.2022
8.	Date on which the file goes to the Bench Clerk	30.06.2022
9.	Date on which files goes to the Head Clerk:	
10.	Date on which file goes to the Assistant Registrar for signature on the order:	
11.	Date of dispatch of order:	