

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

**SHRI SANJAY GARG, JUDICIAL MEMBER**

**ITA No.8357/Del/2019  
Assessment Year : 2013-14**

Smt. Shadab Bilal, C/o-Taj Store, Bhatti Street Moradabad (UP), Uttar Pradesh-244001	vs	DCIT, Range-II, Moradabad, Uttar Pradesh-244001
<b>PAN-AEHPB3515L</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	None
<b>Respondent by</b>	Sh. Sanjay Kumar, Sr. DR
<b>Date of Hearing</b>	22.06.2022
<b>Date of Pronouncement</b>	22.06.2022

**ORDER**

This present appeal has been preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)- Moradabad [hereinafter referred to as 'CIT(A)'] dated 31.07.2019, pertaining to AY 2013-14.

2. No one has put in appearance on behalf of the assessee despite notice, therefore, I proceed to decide the appeal on merit ex-parte of the assessee, after hearing the Ld. DR and after going through the records.

3. The assessee has taken following grounds of appeal:-

*“1. That original return was duly filed on due date, on the basis of electronic data available in 26AS on that date. Later on a revised statement of income was filed and the tax was paid there on, voluntarily, before assessing officer, on the basis of some additional income found posted in*

*26AS, after the due date of filling the original return. However, the same income as declared in the revise statement is accepted by the assessing officer. There was not any concealment of income or wilful negligence at the part of the appellant. Assessing officer has unlawfully imposed penalty u/s 271(1)( C) of income tax act*

*2. That Ld. lower authorities have failed to prove mensria or intention to evade the tax at the part of appellant, before imposing penalty. They have also not considered to the decisions of Hon'ble courts, which were placed before them, as follows*

*1. CIT Vs Suresh Chand Mittal (2000)241 ITR 124*

*2. Cheap Cycle Stores Vs CIT 196 CTR 173 (All)*

*3. CIT Vs Seth Banarsidas Gupta 2001 UPTC 365 (All)*

*4. ACIT Vs Ashok Raj Nath ITA No. 2970/Del/2012 order dated 31-08- 2012 Published (2015) ITR -V- ITAT Mub-129*

4. The assessee in this case has agitated the levy of penalty u/s 271(1)(c) of the Act. The brief facts of the case are that the assessee filed her return of income on 30.07.2013 wherein she declared her income from house property as per the actual rent received up to the date of filing of the return of income. Subsequently, the rent amount of three month of Rs.4,29,012/- and interest of Rs.2,75,960/- was transferred in the assessee's account on 08.08.2013 and 11.10.2013 i.e. after the date of filing of return of income. On the basis of data available in 26 AS Form, the assessee during the course of assessment proceedings, filed revised return of income, which was accepted by the Assessing Officer ( in short 'the AO'). However, the penalty proceeding have been initiated by the AO on the ground that the assessee had not disclosed the aforesaid amount of

rent and interest in her original return of income. The AO held that the Form 26AS cannot be the base for filing and determining of return of income; that merely because the amount in question was not mentioned in Form 26AS as on the date of filing of return of income that did not absolve the assessee to disclose the aforesaid income in the return of income. He accordingly levied the impugned penalty.

5. The Ld. CIT(A) confirmed the penalty so levied by the AO.

6. I have heard the ld. DR and gone through the record. It is an established fact on the file that the amount in question in respect of which the penalty has been levied was received by the assessee after the filing of return of income. After the receipt of the said amount, during the assessment proceedings, the assessee offered the same for taxation. I do not find that this case is of furnishing of any inaccurate particulars of income or concealment of income. The penalty levied by the lower authorities in, my view, is not justice and the same is accordingly ordered to be deleted.

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

Order pronounced in the open Court on 22.06.2022.

**Sd/-**  
**(SANJAY GARG)**  
**JUDICIAL MEMBER**

**Delhi;**  
Dated: 22/06/2022.

*Shekhar*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI