

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

**BEFORE DR. B.R.R. KUMAR, ACCOUNTANT MEMBER
AND
SHRI N.K. CHOUDHRY, JUDICIAL MEMBER**

**ITA Nos. 7901, 7902 & 7903/Del/2019
Assessment years : 2006-07, 2007-08 & 2012-13**

ACIT Central Circle-26, New Delhi	Versus	Krishan Kumar Modi, A-1, Maharani Bagh, Ashram Chowk, New Delhi PAN: AANPM0159M (Respondent)
(Appellant)		

Appellant by : Shri Ravi Kant Choudhary, Ld. Sr. DR
Respondent by: Ms. Shivangi Jain, Ld. CA

Date of hearing : 29.08.2022
Date of order : 29.08.2022

ORDER

PER BENCH

These appeals have been preferred by the Assessee against the consolidated order dated 22.07.2019, impugned herein, passed by the learned Commissioner of Income-tax (Appeals)-29, New Delhi (in short "Ld. Commissioner"), u/s. 250 of the Income-tax Act, 1961 (in short 'the Act') for the assessment years 2006-07, 2007-08 and 2012-13.

2. At the outset, Id. AR, Ms. Shivangi Jain (Id. CA) claimed which is not refuted by the Id. Sr. DR, Sri Ravi Kant Choudhary (Ld. Addl. Commissioner) that the additions of Rs.4,90,20,749/-, Rs.20,44,540/- and Rs.1,12,89,646/- + Rs.11,82,500/- have been made respectively for the assessment years 2006-07, 2007-08 and 2012-13 by the same Assessing Officer.

2.1 Thereafter, vide even order dated 28.11.2017 by the then Assessing Officer, the penalties of Rs.1,65,00,384/-, Rs.6,94,938/- and Rs.12,84,631/- respectively u/s. 271(1)(c) for the A.Ys. 2006-07 and 2007-08 and u/s. 271AAA of the Act for A.Y. 2012-13 were levied.

2.2 Subsequently the Hon'ble Tribunal vide its order dated 05.07.2019 passed in Assessee's own cases for the A.Y. 2006-07 to 2012-13 (ITA Nos. 2892/Del/2017 and others) deleted the additions under challenge for the assessment years 2006-07 and 2007-08 completely and in the case for A.Y. 2012-13, the Hon'ble Tribunal in the same order, deleted the addition of Rs.1,12,89,646/- on account of unaccounted jewellery, however, sustained the addition of Rs.11,82,500/- on account of unaccounted cash.

2.3 Consequently, the Id. Commissioner vide impugned order deleted the penalties imposed u/s. 271(1)(c) of the Act in the cases pertaining to A.Ys. 2006-07 and 2007-08 completely and in the case pertaining to A.Y. 2012-13 the penalty to the extent of addition of Rs.1,12,89,646/-, on the basis of which penalty was levied by the Assessing Officer, however, restricted/affirmed the penalty on account of addition of Rs.11,82,500/-, which was sustained by the Hon'ble Tribunal vide aforesaid order .

3. Being aggrieved, the Revenue department preferred the instant appeals.

4. It is an admitted fact that the deletion of additions, on the basis of which penalties have been levied, has also been affirmed by the Hon'ble Delhi High Court in the cases titled as PCIT(Central)-3, New Delhi vs. Krishan Kumar Modi (ITA No. 48/2021 &Ors.) decided on 22.02.201.

5. Considering the aforesaid claim of the Ld. AR which is not refuted by the Ld. Sr. DR and peculiar facts and circumstances of the case, as the very foundation for levying the penalties has already been collapsed, consequently, penalties imposed does not survive, as rightly been deleted by the Id. Commissioner. Hence, no interference is required, as the order under challenge does not suffer any perversity, impropriety and/or illegality.

6. In the result, appeals filed by the Revenue Department stand dismissed.

Order pronounced in the open court on 29/08/2022.

Sd/-

(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER

Sd/-

(N.K. CHOUDHRY)
JUDICIAL MEMBER

*aks/-