

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

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.8441/DEL/2019
Assessment Year 2011-12

Sara Textiles Ltd., B-8, Sector-4, Noida.	Vs.	DCIT, Circle-7(1), New Delhi.
TAN/PAN: AAHCS9602C		
(Appellant)		(Respondent)

Appellant by:	Shri Salil Kapoor, Adv.		
Respondent by:	Ms. Kajal Singh, Sr.DR		
Date of hearing:	22	09	2022
Date of pronouncement:	22	09	2022

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Appeals)-VIII, New Delhi dated 02.05.2019 arising from the penalty order passed by the Assessing Officer u/s. 271(1)(c) of the Act dated 23.03.2018 concerning Assessment Year 2011-12. The assessee is mainly aggrieved by levy of penalty of Rs.4,96,693/-.

2. The ld. counsel pointed out that there is a delay of 73 days in filing appeal for which the petition for condonation of delay has been filed along with the affidavit having regard to the smallness of the delay and no prejudice perceived to have caused against the Revenue, the delay is condoned.

3. The ld. counsel for the assessee submitted that in the quantum proceedings, the Tribunal vide order dated 23.08.2021 in ITA

No.3270/Del/2016 has restored the matter back to the file of the Assessing Officer for adjudication on merits and consequently, the imposition of penalty is dependent upon the outcome of quantum proceedings pending before CIT(A).

3. The Learned Department Representative endorsed that the quantum proceedings has been restored back to the file of the Assessing Officer for fresh adjudication.

4. After considering the aforesaid submissions, we find that in the quantum proceedings, the Tribunal has restored the matter back to the file of the Assessing Officer. Consequently, the impugned dispute challenging imposition of penalty should also be restored back to the file of the Assessing Officer. The impugned penalty order is thus set aside.

5. The Assessing Officer shall be at liberty to pass a fresh order for imposition of penalty, if considered expedient, in accordance with law having regard to the findings of quantum proceedings after taking into account the position of law and facts in the light of decision rendered in quantum proceedings.

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

Order pronounced in the open Court on 22/09/2022.

Sd/-
[CHANDRA MOHAN GARG]
JUDICIAL MEMBER

DATED: /09/2022

prabhat

Sd/-
[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER