

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

**BEFORE SH. N.K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SH. KUL BHARAT, JUDICIAL MEMBER**

ITA No.6685/Del/2018  
Assessment Year: 2004-05

<b>Kanika Chawla B-32, Vishal Enclave, Rajouri Garden, New Delhi PAN No. AERPC9703R</b>	<b>Vs</b>	<b>ITO Ward- 45 (1) New Delhi</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

<b>Appellant</b>	Sh. D. K. Pandey, CA
<b>Respondent</b>	Sh. Abhishek Kumar, SR. DR

Date of hearing:	23/11/2022
Date of Pronouncement:	23/11/2022

**ORDER**

**PER N.K. BILLAIYA, AM:**

This appeal by the assessee is preferred against the order of the CIT(A)-15, Delhi dated 31.08.2018 pertaining to A.Y.2004-05.

2. The sum and substance of the grievance of the assessee is that the CIT(A) erred in upholding the levy of penalty of Rs.3294113/- levied u/s. 271 (1) (c) of the Act by the AO.

3. Briefly stated the facts of the case are that vide order dated 29.12.2008 assessment was framed u/s. 143 (3) of the Act at an income of Rs. 100901000/-. The assessment was challenged before the CIT(A) and vide order 17.12.2010 the CIT(A) upheld the assessment order.

4. The order of the CIT(A) was challenged before this Tribunal and the Tribunal vide order dated 28.09.2012 in ITA No.1724/Del/2010 remanded the matter to the AO.

5. Vide order dated 26.03.2014 once again the AO made the addition and once again the assessment was challenged before the CIT(A) and the CIT(A) upheld the assessment order.

6. The order of the CIT(A) was challenged before this Tribunal and at the same time pending the appellate order the AO levied penalty u/s. 271 (1) (c) of the Act which was upheld by the CIT(A).

7. In the quantum addition this Tribunal in ITA No.6653/Del/2015 vide order dated 11.10.2019 has remitted the matter back to the files of the AO.

8. Considering the aforementioned factual matrix since the quantum addition has been restored to the files of the AO we deem it fit to set aside this appeal to the files of the AO. The AO

is directed to decide the levy of penalty u/s. 271 (1) (c) of the Act after deciding the quantum addition.

9. In the result, the appeal is allowed for statistical purpose.

10. Decision announced in the open court on 23.11.2022.

Sd/-  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

\*NEHA, Sr. Private Secretary\*

Date:- .11.2022

Copy forwarded to:

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

Sd/-  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI