

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

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

I.T.A. No.2779/DEL/2019
Assessment Year 2013-14

Anmol Financial Services Limited, 14, Dayanand Vihar, New Delhi.	Vs.	ACIT, Circle-2(2), New Delhi.
TAN/PAN: DELA06996D		
(Appellant)		(Respondent)

Appellant by:	Ms. Kriti Bindal, CA		
Respondent by:	Shri Kanav Bali, Sr.DR		
Date of hearing:	02	11	2022
Date of pronouncement:	23	11	2022

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals)-XXXII, New Delhi ('CIT(A)' in short) dated 20.02.2019 arising from the penalty order dated 30.06.2016 passed under Section 271(1)(c) of the Income Tax Act, 1961 (the Act) concerning AY 2013-14.

2. The assessee has challenged the imposition of penalty of Rs.7,74,000/- arising from disallowance towards reversal of income and provisions for doubtful debts aggregating to Rs.25,03,735/- by treating it as undisclosed income of the assessee.

3. As pointed out on behalf of the assessee and also found from

the first appellate order, it is seen that there was a delay of 568 days in filing the appeal before the CIT(A). The CIT(A) observed that the assessee has not acted with due diligence while prosecuting the appeal before him and the cause for delay has not been sufficiently explained. The cause for delay was thus not found satisfactory by the CIT(A). Consequently, the appeal was dismissed *in limine*.

4. On perusal of records, it is observed that the penalty was initiated by the Assessing Officer for furnishing inaccurate particulars of income. However, the penalty was finally confirmed for concealment of particulars of income and also on account of furnishing inaccurate particulars of income. Thus, the satisfaction drawn in the course of the assessment is diluted and widened for both causes, i.e., concealment of particulars of income as well as furnishing of inaccurate particulars of income. The action of the Assessing Officer is clearly vague and non descript. Secondly, the penalty notice issued under Section 274 r.w. Section 271(1)(c) also does not specify the appropriate limb attributable in the facts and the allegation in the notice is towards both limbs, i.e., concealment as well as furnishing of inaccurate particulars of income without any strike off. Such action cannot be approved in the facts of case when seen holistically.

5. On merits, we observe that assessee-company is stated to be non banking finance company. It is the case of the assessee that as per RBI Regulations, where the receivables by way of loans are outstanding for more than six months, such receivables/loans are treated as non performing asset (NPA) and consequently the interest thereon is required to be reversed. Due to very less probability of realization and in sync with such prudential norms

read with the Accounting Standard-9, the assessee reversed the income on such NPA. The assessee thus claims that its action of de-recognition of interest on NPA is in consonance with RBI guidelines and therefore such action cannot be treated as wrong claim or actuated by any kind of culpability.

6. We find merit in the plea of the assessee that mitigating circumstances exists in the case of the assessee for its exoneration from the clutches of Section 271(1)(c) even on merits. In the somewhat similar circumstances, the Co-ordinate Bench in *Vaish Co-operative Adarsh Bank Ltd. vs. DCIT in ITA No.3310/Del/2022 Assessment Year 2009-10* has cancelled the penalty. The case of the assessee is also backed by the judgment rendered by the Hon'ble Bombay High Court in *PCIT vs. Bajaj Finance Ltd in ITA No.237/2007 Assessment Year 2009-10 judgment dated 02.04.2019*. Consequently, we find merit in the plea of the assessee for cancellation of penalty imposed in question.

7. While coming to such conclusion, we are also alive to the issue of delay in filing the appeal before the CIT(A). It is submitted on behalf of the assessee that the penalty order passed by the Assessing Officer was misplaced in the office of the consulting Chartered Accountant causing delay in filing the appeal. When seen in the light of the facts noted above, the *bona fide* of the submission for delay cannot be put under shadow. It is a clear cut case of two views on the subject matter of dispute. The Assessing Officer himself was not sure about the nature of default. We do not see any benefit arising to the assessee by such delay. Looking holistically, we are of the view that the delay was unintended and ought to have been condoned on pragmatic considerations. Hence, we condone the delay in filing the appeal

before the CIT(A) and keeping in mind the apparent facts do not consider it necessary to remit the matter back to the file of the CIT(A) to avoid protracted litigation but rather take call on our own on the subject matter.

8. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 23/11/2022.

Sd/-

**[CHANDRA MOHAN GARG]
JUDICIAL MEMBER**

DATED: /11/2022

prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**