

**IN THE INCOME TAX APPELLATE TRIBUNAL  
[ DELHI BENCH : "DB" NEW DELHI ]**

**BEFORE DR. B. R. R. KUMAR, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S, JUDICIAL MEMBER**

**I.T.A. No. 7793/Del/2017 (A.Y 2006-07)**

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| Shri Raju Verma,<br>17/1, Curzon Road,<br>Dehradun – 248 001.<br><b>PAN No. ABIPV8176F</b> | Vs. | DCIT,<br>Central Circle,<br>Dehradun. |
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**AND**

**I.T.A. No. 7794/Del/2017 (A.Y 2007-08)**

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| Shri Raju Verma,<br>17/1, Curzon Road,<br>Dehradun – 248 001.<br><b>PAN No. ABIPV8176F</b> | Vs. | DCIT,<br>Central Circle,<br>Dehradun. |
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**AND**

**I.T.A. No. 7795/Del/2017 (A.Y 2008-09)**

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|--|-----|---------------------------------------|
| Shri Raju Verma,<br>17/1, Curzon Road,<br>Dehradun – 248 001.<br><b>PAN No. ABIPV8176F</b> | Vs. | DCIT,<br>Central Circle,<br>Dehradun. |
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**AND****I.T.A. No. 7796/Del/2017 (A.Y 2009-10)**

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| Shri Raju Verma,<br>17/1, Curzon Road,<br>Dehradun – 248 001.<br><br><b>PAN No. ABIPV8176F</b><br><br><b>(APPELLANT)</b> | Vs. | DCIT,<br><br>Central Circle,<br><br>Dehradun.<br><br><b>(RESPONDENT)</b> |
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| <b>Assessee by</b>   | <b>Shri K. K. Juneja,<br/>Advocate;</b>        |
| <b>Department by</b> | <b>Shri N.S. Jangpangi,<br/>[CIT] - D. R.;</b> |

|                              |                   |
|------------------------------|-------------------|
| <b>Date of Hearing</b>       | <b>15.12.2022</b> |
| <b>Date of Pronouncement</b> | <b>16.12.2022</b> |

**ORDER****PER BENCH**

These four appeals are filed by the assessee against common order of the Id. Commissioner of Income Tax (Appeals)-IV, Kanpur [hereinafter referred to CIT (Appeals) both dated 21.09.2017 for assessment years 2006-07, 2007-08, 2008-09 and 2009-10.

2. The assessee has raised the following substantive common grounds of appeal:-

“1. On the facts and circumstances of the case, the penalty order passed by the learned CIT(A) confirming the penalty under section 271 (1 )(c) of the Act is bad both in the eyes of law and on facts.

2. On the facts and circumstances of the case the learned CIT(A) has erred both on facts and in law in passing the order without giving assessee a proper and adequate opportunity of being heard in violation of principle of natural justice.

3. On the facts and circumstances of the case, learned CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that the AO has erred both on facts and in law in going ahead with the penalty order, rejecting the contention of the assessee to keep the penalty proceedings in abeyance keeping in view the provision of section 275(1)(a) of the Act.

4 On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that the assessment order itself being bad in law and without jurisdiction no penalty on the basis of such order can be levied.

5. On the facts and circumstances of the case the CIT(A) has erred both on facts and in law in confirming the penalty of Rs. 40,000/- on addition of interest on deposits in HSBC account of Rs. 1,46,025/- and addition of Rs. 56,264/- on account of difference in interest income disclosed in return.

6. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the penalty without giving any finding as to the merits of the case on concealment of income as well as furnishing of inaccurate particulars of income.

7. *On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in ignoring the fact that the penalty proceedings are independent proceedings, as such mere addition in the assessment order does not lead to levy of penalty.*

8. *On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the penalty despite the fact that there is neither concealment of income nor furnishing of inaccurate particulars.*

9. *On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the penalty despite there being no specific allegation by the AO with respect to concealment of income or furnishing inaccurate particulars.”*

3. The present appeals are filed by the assessee aggrieved by the penalty proceedings initiated for the Assessment Year 2006-07, 2007-08, 2008-09 and 2009-10.

4. At the outset, the Ld. Counsel for the assessee submitted that the assessee had approached this Tribunal by challenging the addition made by the A.O. which was sustained by the CIT(A) for the years under consideration and vide order dated 29/04/2022 in ITA No. 1805/Del/2017 (A.Y 2006-07), ITA No. 1806/Del/2017 (A.Y 2007-08), ITA No. 1807/Del/2017 (A.Y 2008-09) & ITA No. 1808/Del/2017 (A.Y 2009-10), the Tribunal has deleted the addition in quantum appeal on which the present penalty is imposed and also remanded the matter for fresh consideration. Therefore submitted that, in

consequence to the order of the Tribunal dated 29/02/2022 (supra), the penalty proceedings deserved to be deleted.

5. The Ld. DR has not disputed the above facts. Considering the facts that the Tribunal has deleted the addition in the quantum proceedings and remanded the matter to the file of the A.O. We are of the opinion that the present penalty proceedings and penalty order made thereon deserves to be deleted. Accordingly, the penalty order passed in the years under consideration is hereby deleted. Needless to say, the Ld. A.O. is at liberty to initiate fresh penalty proceedings in accordance with law in case of any addition made after conducting fresh assessment proceedings.

6. In the result, appeals filed by the assessee are allowed.

**Order pronounced in the Open Court on : 16.12.2022.**

**Sd/-  
(B. R. R. KUMAR)  
ACCOUNTANT MEMBER**

**Sd/-  
(YOGESH KUMAR U.S.)  
JUDICIAL MEMBER**

Dated : 16/12/2022

*\*MEHTA/R.N, SR. PS\**

Copy forwarded to :

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

