

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'E' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
and  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.2497/Del./2019  
(ASSESSMENT YEAR : 2011-12)**

ITO, Ward 3,  
Karnal.

vs.

Shri Opinder Singh Virk,  
H.No.138 – B, Model Town,  
Karnal – 132 001 (Haryana).

**(PAN : AEPPV9041P)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : None  
REVENUE BY : Shri Jitender Chand, Sr. DR

Date of Hearing : 23.01.2023  
Date of Order : 23.01.2023

**ORDER**

**PER SHAMIM YAHYA, ACCOUNTANT MEMBER :**

This appeal filed by the Revenue is directed against the order of the  
1d.CIT(Appeals), Karnal dated 10.01.2019 and pertains to AY 2011-12.

2. The grounds of appeal taken by the Revenue read as under:-

“1. Whether on the facts and in the circumstances of the case, the CIT(A) has erred in deleting the penalty of Rs.50,89,002/- made on account of addition of interest received on enhanced compensation claiming as exempt by the assessee by merely relying on the decision of Apex Court in the case of CIT Faridabad Vs Ghanshaym Dass (HUF) but failing to observe that section 56(2) (viii) and 57(iv) read with section 145A(b) of the I.T. Act, 1961 has also been introduced w.e.f. 01.04.2010 clearly mandating 50% of interest earned on compensation or enhanced compensation as taxable.

2. Whether on the facts and in the circumstances of the case, the CIT(A) has erred in deleting the penalty of Rs.50,89,002/- made on account of addition of interest received on enhanced compensation by not considering that section 56 (2)(viii) was introduced to clarify the position of taxability of interest earned on compensation or enhanced compensation as per which the same is taxable under the head 'Income from other sources' w.e.f. 01.04.2010 in spite of judgment of Apex Court in the case of CIT Faridabad Vs Ghanshaym Dass (HUF).

3. Whether on the facts and in the circumstances of the case, the CIT(A) has erred in deleting the penalty of Rs.50,89,002/- made on account of addition of interest received on enhanced compensation when the addition on the above ground has been upheld by the Ld. CIT(A) herself vide order dated 25.03.2015.”

3. Though despite notice none appeal on behalf of the assessee but ld. DR for the Revenue brought before us quantum order of the same assessment year for the same assessee i.e. AY 2011-12 wherein ITAT vide order dated 14.03.2019 has deleted the addition. Once the quantum on which penalty has been levied is deleted, there is no basis for penalty to survive. Accordingly, we set aside the penalty order and delete the levy of penalty.

4. In the result, the appeal filed by the Revenue is dismissed.

**Order pronounced in the open court on this 23<sup>RD</sup> day of January, 2023 after the conclusion of the hearing.**

**Sd/-  
(ANUBHAV SHARMA)  
JUDICIAL MEMBER**

**sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER**

**Dated the 23<sup>RD</sup> day of January, 2023  
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A), Karnal.
- 5.CIT(ITAT), New Delhi.

AR, ITAT  
NEW DELHI.