

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'ए', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA**

**श्री संजय गर्ग, न्यायिक सदस्य एवं श्री मनीष बोरड, लेखा सदस्य के समक्ष**  
Before Shri Sanjay Garg, Judicial Member and Dr. Manish Borad, Accountant Member

I.T.A Nos.549&550/Kol/2022  
Assessment years: 2013-14 & 2014-15

ACIT, CC-3(1), Kolkata.....Appellant

vs.

Deepak Kumar Agarwal.....Respondent  
38B, Panditya Road,  
Tower 01, Fort Oasis 6<sup>th</sup> Floor,  
Flat No.603, Kolkata-700019.  
[PAN: ABSPA2276K]

C.O No.22&23/Kol/2022  
(in I.T.A Nos.549&550/Kol/2022)  
Assessment years: 2013-14 & 2014-15

Deepak Kumar Agarwal.....Cross-Objector  
38B, Panditya Road,  
Tower 01, Fort Oasis 6<sup>th</sup> Floor,  
Flat No.603, Kolkata-700019.  
[PAN: ABSPA2276K]

vs.

ACIT, CC-3(1), Kolkata.....Respondent

**Appearances by:**

Shri Subhrajyoti Bhattacharjee, CIT-DR, appeared on behalf of the appellant.  
Shri Siddharth Jhajharia, AR, appeared on behalf of the Respondent.

Date of concluding the hearing : February 21, 2023

Date of pronouncing the order : February 21, 2023

**आदेश / ORDER**

**संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:**

The captioned are the appeals have been preferred by the Revenue and corresponding cross-objections by the assessee against the separate

orders both dated 29.07.2022 of the Commissioner of Income Tax-21, Kolkata [hereinafter referred to as the 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act').

2. The department, in this appeal, has contested the action of the CIT(A) in deleting the penalty levied by the Assessing Officer u/s 271(1)(c) of the Act.

3. The ld. CIT(A) has deleted the penalty observing that since the quantum additions made by the Assessing Officer, which was the very basis for the levy of penalty, stood deleted by the Tribunal vide order dated 10.05.2019 passed in ITA No.s125&126/Kol/2018, therefore, the corresponding penalty u/s 271(1)(c) of the Act had become infructuous.

4. Now, the Department has come in appeal pleading that the Department has filed some SLP in some another case before the Hon'ble Supreme Court, wherein, the identical issues relating to the quantum additions as in the case of the assessee is involved. May it be so, however the fact on file is that the quantum additions, on the basis of which the impugned penalty was levied by the Assessing Officer, stood deleted by the Tribunal and therefore, the impugned penalty has no legs to stand. We, therefore, do not find any infirmity in the order of the CIT(A) and the same is upheld.

5. So far as the cross-objections filed by the assessee are concerned, the assessee has not put any grievance against the order of the CIT(A).

6. In view of this, the present appeals of the Revenue as well as cross-objections of the assessee are hereby dismissed.

***Kolkata, the 21<sup>st</sup> February, 2023.***

Sd/-

[डॉक्टर मनीष बोरड /Dr. Manish Borad]

लेखा सदस्य /Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]

न्यायिक सदस्य /Judicial Member

Dated: 21.02.2023.

RS

*Copy of the order forwarded to:*

1. ACIT, CC-3(1), Kolkata
2. Deepak Kumar Agarwal
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches