

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

Before Sh. C. N. Prasad, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 1908/Del/2021 : Asstt. Year : 2011-12

ITA No. 1909/Del/2021 : Asstt. Year : 2011-12

Shah Nawaz, B-93, New Seelampur Market, New Delhi-110053	Vs	Income Tax Officer, Ward-34(3), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AESPN3071L		

Assessee by : Sh. Adil Mahmood, CA

Revenue by : Ms. Meenakshi Dohore, Addl. CIT

Date of Hearing: 03.01.2023

Date of Pronouncement: 16.03.2023
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ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the orders of Id. CIT(A)-38, New Delhi dated 24.01.2019 and 22.03.2019.

2. In ITA No. 1908/Del/2021, following grounds have been raised by the assessee:

"1. On the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in assessing the income of Rs.1,78,966/- in hands of the assessee on account of GP ratio fall down in the year under consideration from the preceding year.

2. On the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in assessing the income of Rs.47,03,460/- in hands of the assessee on account of amount credit in the saving account of the assessee during the year under consideration.

3. On the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in assessing the income of

Rs.56,54,340/- in hands of the assessee on account of cash deposit in the saving account of the assessee during the year under consideration.

4. On the facts and in the circumstances of the case and in law, the Assessing Officer erred in charging interest u/s 234A, 234B and 234C.

5. On the facts and in the circumstances of the case and in law, the initiation of penalty proceeding under section 271(1)(b), 271(1)(c) is bad in law keeping in view the grounds mentioned above."

3. In ITA No. 1909/Del/2021, following grounds have been raised by the assessee:

"1. On the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in initiation the penalty proceeding u/s 271(1)(c) of the Act.

2. On the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in impose the penalty without clear-cut finding of charge to impose the penalty.

3. Whether the notice issued under section 271(1)(c) of the Act, in the printed form without specifically mentioning whether the proceedings are initiated on the ground of concealment of income or on account of furnishing of inaccurate particulars is valid and legal?

4. On the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in impose the penalty without providing sufficient opportunity to the assessee."

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4. Heard the arguments of both the parties and perused the material available on record. The reasons submitted by the Id. AR for not appearing before the Id. CIT(A) have been considered.

5. The order of the Id. CIT(A) was passed *ex-parte* without going into the merits of the issue. Hence, the file is being

remand to the file of the Id. CIT(A) to adjudicate the issue afresh after affording an opportunity to the assessee. The revenue authorities would be at liberty to initiate the penalty proceedings as per the provisions of the Act in case of failure of the assessee to comply with the notices issued from time to time.

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6. Owing to the above order, the order u/s 271(1)(c) be adjudicated taking into consideration the outcome of the *de novo* proceedings by the Id. CIT(A) in the quantum proceedings.

7. In the result, the appeals of the assessee are allowed for statistical purpose.

Order Pronounced in the Open Court on 16/03/2023.

Sd/-

(C. N. Prasad)
Judicial Member

Dated: 16/03/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR