

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

**BEFORE SH. SAKTIJIT DEY, JUDICIAL MEMBER  
AND  
SH. N. K. BILLAIYA, ACCOUNTANT MEMBER**

ITA No.5107/Del/2019  
Assessment Year: 2014-15

<b>ACIT Circle – 76(1) New Delhi</b>	<b>Vs</b>	<b>TV Today Network Ltd. F-26, First Floor, Connaught Circus, New Delhi PAN No.AABCT0424B</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. Vivek Vardhan, Sr. DR
Respondent by	Sh. Salil Aggarwal, Sr Advocate Sh. Shailesh Gupta, CA Sh. Madhur Aggarwal, Advocate

Date of hearing:	14/06/2023
Date of Pronouncement:	/06/2023

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal by the revenue is preferred against the order of the CIT(A)-31, New Delhi dated 25.03.2019 pertaining to A.Y.2014-15.

2. The grievance of the revenue read as under :-

1. Whether on the facts and in the circumstances of the case and in law, the learned CIT(A) was justified in holding that the appellant has reasonable cause with the meaning of section 273B for non-deduction of tax.?
2. Whether on the facts and in the circumstances of the case and in law, the CIT(A) has not appreciated that the parties were not identifiable without factual exercise of verification which is considered as necessary for determination ?
3. Whether on the facts and in the circumstances of the case and in law, the CIT(A) has justified to ignore, the para no.4.1 of the penalty order that every year is a separate year in terms of Income Tax and mere deletion of penalty in the earlier years doesn't make ground for the deletion of penalty in the subsequent years.
4. Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) has ignored the fact that in earlier year tax effect was below the taxable limit to file appeal before ITAT and as per CBDT Circular No. 03/2018 dated 11/07/2018 para 7 "The income-tax department shall not be precluded from filing an appeal against the disputed issues in the case of the same assessee for any other assessment year, if the tax effect exceeds the specified monetary limits."
5. Whether on the facts and in the circumstances of the case and in law, the CIT(A) was justified in holding in placing reliance on the decision of the Supreme Court in the case of CIT vs NOVA SCOTIA(2016),. In spite of the fact that assessee did not state any reasonable cause not to deduct TDS as per provisions of Income Tax Act,1961?
6. That the order of the CIT(A) being erroneous in law and on facts to be vacated and order of the Addl. CIT be restored.
7. That the appellant craves leave to add or amend any one or more of the ground of the appeal as stated above as and when need for doing so may arise.

3. The sum and substance of the grievance of the revenue is that the CIT(A) erred in cancelling the penalty levied by the AO u/s. 271C of the Act.

4. Briefly stated the facts of the case are that during the course of the scrutiny assessment proceedings it was noticed that assessee has added back disallowance u/s. 40a (ia) in the computation of income in respect of expenditure of Rs.2705667199/-. On which there was a TDS liability of Rs.17308103/- .

5. The proceeding for imposition of penalty was initiated through a show cause notice u/s. 271C of the Act.

6. In the penalty proceedings the AO observed that the deductor (assessee) has failed to deduct tax at source aggregating to Rs.17308103/- and is, therefore, liable for penalty u/s. 271(1) (c) of the Act. The AO accordingly levied penalty equal to the amount of TDS i.e. 17308103/-.

7. Assessee carried the matter before the CIT(A) and vehemently contended that the assessee has made the impugned payment and claimed expenditure in the subsequent assessment years in which the assessee has deducted tax at source and deposited the same.

8. After considering the facts and the submissions the CIT(A) observed that the assessee has already disallowed the entire amount and did not claim the impugned expenditure. The CIT(A) further observed that in subsequent years not only the assessee claimed expenditure but also deducted tax at source and deposited the same. The CIT(A) concluded by holding that it is not a fit case for levy of penalty u/s. 271C of the Act and deleted the same.

9. Before us though the DR strongly supported the findings of the AO but could not point out any factual error in the findings of the CIT(A).

10. We find that no order u/s. 201 of the Act has been framed by the AO which means the AO never treated the assessee in default. Further during the year under consideration the assessee has only made provision of liability of expenditure and the said

provision was added back while computing the income for the year. In subsequent year when the liability crystallized not only the assessee has claimed the expenditure but also deducted tax at source.

11. On these facts we do not find any reason for the levy u/s. 271C of the Act and further we do not find any reason to interfere with the findings of the CIT(A). The appeal filed by the revenue is dismissed.

Order announced in the open court on 19.06.2023.

Sd/-  
**[SAKTIJIT DEY]**  
**JUDICIAL MEMBER**

Dated: .06.2023

\*Neha\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CITi
4. CIT(A)
5. DR

Sd/-  
**[N.K. BILLAIYA]**  
**ACCOUNTANT MEMBER**

Asst. Registrar  
ITAT, New Delhi