

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No.3030/Del/2022
Assessment Year: 2008-09

Mulayam Singh H.No.594, Main Shyam Park, Sahibabad, Ghaziabad PAN No.BDIPS7017P (APPELLANT)	Vs	ITO Ward- 1 (4) Ghaziabad (RESPONDENT)
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Appellant by	None
Respondent by	Ms. Smita Singh, Sr. DR

Date of hearing:	01/08/2023
Date of Pronouncement:	01/08/2023

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order dated 26.10.2022 by NFAC pertaining to A.Y. 2008-09.

2. The sum and substance of the grievance of the assessee is that NFAC erred in confirming the penalty levied u/s. 271 (1)(c) of the Act.

3. The roots for the levy of penalty lie in the assessment order dated 10.12.2015 framed u/s. 147/143(3) of the Act. The returned income of Rs.131131/- was assessed at Rs.1792555/- after making an addition on account of short term capital gain of Rs.1661424/-.

4. The quantum addition travelled upto the Tribunal and this Tribunal in ITA No.3768/Del/2018 vide order dated 08.10.2018 restored the quarrel to the file of the CIT(A) with a direction to decide the appeal on merit of the case. In the light of the said order of the coordinate Bench the quarrel relating to the penalty is also set aside to the files of the CIT(A). The CIT(A) is directed to decide the issue of levy of penalty u/s. 271(1)(c) of the Act after deciding the quantum appeal.

5. In the result, the appeal of the assessee is allowed for statistical purpose.

6. Decision announced in the open court 01.08.2023.

Sd/-
[ASTHA CHANDRA]
JUDICIAL MEMBER

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

Dated: .08.2023
Neha

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

Asst. Registrar
ITAT, New Delhi