

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH “F”: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
AND  
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

**ITA No. 1778/DEL/2019  
Assessment Year: 2009-10**

Ratroi Maa Trading Private Ltd., M-98, 2 <sup>nd</sup> Floor, Jagat Ram Park, Laxmi Nagar, Delhi-110092. PAN- AAECR0612A	<u>Vs</u>	Income-tax Officer, Ward-21(1), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>	Shri Shil Gupta, CA	
<b>Department represented by</b>	Shri Vivek Vardhan, Sr. DR	
<b>Date of hearing</b>	03.08.2023	
<b>Date of pronouncement</b>	07.08.2023	

**ORDER**

**PER KUL BHARAT, JM:**

This appeal, by the assessee, is directed against the penalty order u/s 271(1)(c) of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), passed

by the learned Commissioner of Income-tax (Appeals)-XXV, New Delhi, dated 02.01.2019, pertaining to the assessment year 2009-10. The solitary effective ground raised by the assessee is as under:

*“That on the basis of facts and in the circumstances of the case and in law, Ld. CIT(A) erred in making addition by enhance income of Rs. 3,27,45,060/- and thereafter imposed penalty amounting to Rs. 1,01,18,224/- (@ 100%) under section 271(1)(c) of the Income-tax Act, 1961.”*

2. At the outset learned counsel for the assessee challenging the impugned penalty order submitted that in quantum proceedings the Coordinate Bench of this Tribunal in ITA no. 7489/Del/2018 vide order dated 13.06.2023 has deleted the impugned addition, hence no penalty would survive.

3. The learned DR, on the other hand, supported the impugned penalty order. However, he fairly conceded that the Tribunal in quantum appeal being ITA no. 7489/Del/2018 has deleted the addition.

4. We have heard rival submissions and perused the material available on record. Admittedly in quantum proceedings the addition, which was the basis for imposing impugned penalty u/s 271(1)(c) of the Act, has since been deleted by the Coordinate Bench of this Tribunal vide its order dated 13.06.2023 rendered in ITA no. 7489/Del/2018. Therefore, since the very basis for levy of penalty has gone, the

impugned penalty levied u/s 271(1)(c) of the Act cannot survive and stands deleted accordingly. Ground of appeal is allowed.

5. Appeal of the assessee is allowed.

Order pronounced in open court on 7<sup>th</sup> August, 2023.

**Sd/-**  
**(DR. B.R.R. KUMAR)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

\*MP\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**  
**ITAT, NEW DELHI**