

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "B" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
AND  
SHRI M BALAGANESH, ACCOUNTANT MEMBER**

आ.अ.सं./I.T.A No.223/Del/2019

निर्धारणवर्ष/Assessment Year:2008-09

Chote Lal Verma C/o Hemant Arora & Co., 1, Tyagi Road, Dehradun, Uttarakhand.	<u>बनाम</u> <b>Vs.</b>	DCIT Central Circle, Ground Floor, Aayakar Bhawan, 16-A, Cross Raod Dehradun, Uttarakhand.
<b>PAN No. ADTPV8331M</b>		
अपीलार्थी <b>Appellant</b>		प्रत्यर्थी/ <b>Respondent</b>

<b>Assessee by</b>	<b>Ms. Pallavi, CA</b>
<b>Revenue by</b>	<b>Shri Narendra S Jangpangi, CIT-DR</b>

सुनवाईकीतारीख/ Date of hearing:	22.08.2023
उद्घोषणाकीतारीख/ Pronouncement on	22.08.2023

**आदेश /O R D E R**

**PER C.N. PRASAD, J.M.**

This appeal is filed by the assessee against the assessment order of Ld. Commissioner of Income Tax (Appeals)-IV, Kanpur dated 13.11.2018 for the AY 2008-09 in sustaining the penalty levied u/s 271(1)(c) of the Act.

2. The Ld. Counsel for the assessee, at the outset, submits that the additions/disallowances made in the assessment order based on

which the penalty was levied has been deleted by the Tribunal in quantum appeal in ITA No.3396/DDN/2015 dated 31.01.2023 and, therefore, the penalty order has no legs to stand. Copy of the order of the Tribunal is placed on record.

3. Ld. DR accepted the position that the Tribunal deleted the additions/disallowances made by the Assessing Officer in the assessment order based on which penalty u/s 271(1)(c) of the Act was levied.

4. We have heard rival submissions, perused the orders of the authorities below. We have also perused the order of the Tribunal in quantum proceedings in ITA No.3396/DDN/2015 and observed that the addition made by the Assessing Officer has been deleted. In the circumstances the penalty levied on the basis of the addition deleted by the Tribunal cannot survive. Thus, we set aside the penalty order passed u/s 271(1)(c) of the Act and allow the appeal of the assessee.

5. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 22.08.2023

Sd/-  
(M BALAGANESH)  
ACCOUNTANT MEMBER

Sd/-  
(C.N. PRASAD)  
JUDICIAL MEMBER

Dated: 22.08.2023

*\*Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT  
(DR)/Guard file of ITAT.

**By order**

**Assistant Registrar, ITAT: Delhi Benches-Delhi**