

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C" DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
&
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

I.T.A. No.345/DEL/2021
Assessment Year 2008-09

Jeet Singh, Village-Kadarpur, Sub Tehsil - Badshahpur, District-Gurugram	v.	ITO Ward-2(1) Gurgaon.
TAN/PAN: BDFPS3837Q		
(Appellant)		(Respondent)

Appellant by:	Shri Mahvir Singh, Adv.		
Respondent by:	Shri D.K. Srivastava, Sr. DR		
Date of hearing:	12	09	2023
Date of pronouncement:	12	09	2023

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the Assessee against the order of the Commissioner of Income Tax (Appeals)-II, Gurgaon ['CIT(A)' in short] dated 05.03.2020 arising from the penalty order dated 15.03.2018 passed by the Assessing Officer (AO) under Section 271(1)(c) of the Income Tax Act, 1961 (the Act) concerning AY 2008-09.

2. As per grounds of appeal, the assessee has challenged the imposition of penalty of Rs.1,01,56,420/- arising out of quantum additions of Rs.3 crore.

2. At the outset, ld. counsel for the assessee submitted that in the quantum proceedings, the Co-ordinate Bench of the Tribunal vide order dated 24.06.2021 in ITA No.3068/Del/2017 has set

aside the order of the Id. CIT (A) and quashed the proceedings initiated u/s.147 of the Act and as a consequence, the assessment order itself stood annulled. As a corollary to such annulment of assessment order, the consequential penalty order has no legs to stand in the eyes of law.

3. Learned Department Representative has not expressed any objection and he too admitted that in the quantum proceedings are rendered nonest.

4. On appraisal of such factual matrix, we find that in the quantum proceedings, the Tribunal has set aside the order of the Ld. CIT (A) and allowed the quantum appeal. Hence, the impugned penalty flowing from assessment order is deleted.

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

Order was pronounced in the open Court on 12/09/2023.

Sd/-

**[YOGESH KUMAR US]
JUDICIAL MEMBER**

DATED: /09/2023

Prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**