

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G': NEW DELHI
BEFORE,
SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.3563/Del/2017
(ASSESSMENT YEAR 2007-08)**

M/s Saga Township Pvt. Ltd. B-67, Sarita Vihar New Delhi-110 076 PAN-AAKCS 1955M	Vs.	DCIT Central Circle-19 New Delhi
(Appellant)		(Respondent)

Assessee by	Sh. M.P.Rastogi, Adv.
Department by	Sh. Binod Kumar, CIT-DR
Date of Hearing	10/10/2023
Date of Pronouncement	13/10/2023

ORDER

PER M. BALAGANESH AM:

This appeal of the Assessee arises out of the order of the Learned Commissioner of Income Tax (Appeals)-27, New Delhi, [hereinafter referred to as 'Ld. CIT(A)'] in Appeal No.38/2014-15 dated 30/03/2017 against the order passed by Assistant Commissioner of Income Tax, Central Circle-10, New Delhi (hereinafter referred to as the 'Ld. AO') u/s 153A/143(3) of the

Income Tax Act (hereinafter referred to as 'the Act') on 28/12/2010 for the Assessment Year 2007-08.

2. The assessee has raised the following grounds of appeal:-

"1) It is contended that the appellant has neither furnished inaccurate particulars of income nor concealed the particulars of its income within the meaning of section 271(1)(c) of the Act.

2) The lower authorities have erred in levying/confirming the penalty u/s 271(1)(c) of the Act, as the AO has not given a clear finding whether the assessee has concealed the particulars of income OR has furnished inaccurate particulars of income. In the absence of specific charge, the provisions of section 271(1)(c) of the Act are not applicable.

3) That the above grounds of appeal are independent and without prejudice to one another.

The appellant craves leave to add, alter, amend or withdraw any of the grounds of appeal at the time of hearing."

3. The only effective issue to be decided in this appeal is as to whether the Ld. CIT(A) was justified in confirming the levy of penalty u/s 271(1)(c) of the Act in the facts and circumstances of the instant case.

4. At the outset, we find that the Bench had directed the Ld. DR on earlier occasion to produce the assessment records which was not complied by the Revenue. However, considering the fact that the quantum addition has already been deleted by this Tribunal, we deem it fit not to wait for the compliance of the order sheet entry by the revenue. We find that this Tribunal in ITA Nos.5189 and

5190/Del/2012 for Asst. Years 2007-08 and 2008-09 dated 03/02/2020 had deleted the addition made in the sum of Rs.45,49,996/-. We find from the penalty order that concealment penalty has been levied by the Ld. AO only for this addition. Once the quantum addition has been deleted, the penalty would have no legs to stand in the eyes of law and accordingly deleted.

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

Order pronounced in the open court on 13th October, 2023.

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated:13/10/2023

Pk/sps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI

