

**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.128/Del/2020
(ASSESSMENT YEAR 2014-15)**

Sanjay Singh UG-56, Somdatt Chamber-II 9, Bhikaji Cama Place New Delhi-110 070 PAN-AWAPS 7119N (Appellant)	Vs.	ACIT Circle-33(1) New Delhi (Respondent)
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Assessee by	Sh. Mukesh Jain, CA & Sh. Samyak Jain, Advocate
Department by	Sh. Anuj Garg, Sr. DR

Date of Hearing	11/10/2023
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)-34, New Delhi [hereinafter referred to as 'Ld. CIT(A)'] in Appeal No.81/19-20 dated 22/10/2019 against the order passed by Assistant Commissioner of Income Tax, Circle-33(1), Delhi (hereinafter referred to as the 'Ld.

AO) u/s 271(1)(c) of the Income Tax Act (hereinafter referred to as 'the Act') on 31/03/2019 for the Assessment Year 2014-15.

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

"1. On the facts and circumstances of the case the order passed by Ld. Assessing officer u/s 271(1)(c) is bad both in eyes of law and facts.

2. On the facts and circumstances of the case the penalty order being passed in violation of the principal of natural justice and without giving adequate time and opportunity to the assessee to represent its case and to file its replies and clarification, is bad in the eyes of law and liable to be quashed.

3. (1) On the facts and circumstances of the case the Id.AO has erred in imposing penalty on account of furnishing inaccurate particulars of income on account of shifting the business loss from trading in agriculture derivatives to speculative loss and Id. CIT(A) has erred in confirming the same, without any allegation of such loss being bogus.

(ii) That the such loss was claimed by the assessee under bona fide belief of that being allowable as business loss.

4. On the facts and circumstances of the case, case the Id.AO has erred in passing penalty order instead of keeping the same in abeyance till the decision of ITAT in quantum proceedings.

5. On the facts and circumstances of the case and law, the Ld. AO has erred in imposing penalty of Rs.33,29,567 u/s 271(1)(c) of the Act which is incorrect as per the method specified u/s 271(1)(c) of the Act read with explanation.

6. On the facts and circumstances of the case the Ld. A.O. has erred both on facts and in law in charging interest u/s 234A/B/C.

7. That the appellant craves leave to add, alter, amend and/or rescind any of the ground of appeal."

3. We have heard the rival submissions and perused the materials available on record. The issue in dispute is with regard to levy of penalty u/s 271(1)(c) of the Act. The Ld. AR placed on record

a copy of Form-5 issued by the competent authority settling the entire dispute under The Direct Tax Vivad se Vishwas Scheme, 2020, wherein the tax portion has been settled. Once the disputed tax is settled under Vivad se Vishwas Scheme, the assessee would be eligible for immunity from penalty proceedings automatically as per the Direct Tax VSV Scheme, 2020. Hence, the penalty levied herein is liable to be deleted. Accordingly grounds raised by the assessee are allowed.

4. 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

