

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

BEFORE SH. SHAMIM YAHYA, ACCOUNTANT MEMBER

ITA No.1429/DEL/2023
(Assessment Year : 2012-13)

Mexi Krishna Joshi A-156, Ramprastha Colony P.O. Chandar Nagar, Ghaziabad, UP-201 011	Vs.	ITO Ward – 1(4) Ghaziabad
PAN No. ACBPJ 2221 K (APPELLANT)		(RESPONDENT)

Assessee by	Shri Sujeet Kumar Yadav, A.R.
Revenue by	Shri Om Prakash, Sr. D.R.

Date of hearing:	08.01.2024
Date of Pronouncement:	12.01.2024

PER SHAMIM YAHYA, AM :

This appeal filed by the assessee is directed against the order of learned Commissioner of Income Tax (Appeals) – National Faceless Appeal Centre (NFAC), Delhi dated 09.03.2023 pertaining to Assessment Year 2012-13.

2. The issue raised is relating to penalty of Rs.50,000/- imposed under section 271(1)(c) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

3. Brief facts relating to the levy of penalty is that in the assessment a sum of Rs.5,50,000/- was noted as cash deposit in Bank. The reasonable ground for depositing the cash was that it was out of household savings accumulated over last several years. Further, the AO granted relief of Rs.1,01,000/- since it was received from his close relative as gift. On the balance addition of Rs.4,50,000/- was done and penalty Rs.50,000/- was imposed.

4. Upon assessee's appeal, learned CIT(A) also confirmed the addition. Against this order, assessee filed appeal before ITAT.

5. I have heard both the parties and perused the records. I note that penalty has been levied by disregarding of plea of small savings. In my considered opinion in these circumstances penalty under section 271(1)(c) of the Act is not leviable. Furthermore, the conduct of the assessee is not found to be contumacious to warrant levy of penalty under section 271(1)(c) of the Act. In these circumstances, I direct that penalty amounting to Rs.50,000/- under section 271(1)(c) of the Act be deleted.

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

Order pronounced in the open court on 12.01.2024

Sd/-

**(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

Date:- 12.01.2024

*Priti Yadav, Sr. PS**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI