

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC”: NEW DELHI**

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 2616/DEL/2023
Assessment Year: 2012-13

Ravi Kumar Verma, 306, Gali No. 7, Thapar Nagar, Meerut. PAN- AAIPV4953F	<u>Vs</u>	ACIT, Circle-1, New Delhi.
APPELLANT		RESPONDENT
Assessee represented by	Shri Neeraj Jain Adv.; & Shri Pushkar Jain, Adv.	
Department represented by	Shri Om Parkash, Sr. DR	
Date of hearing	06.02.2024	
Date of pronouncement	08.02.2024	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 07.06.2023, pertaining to the assessment year 2012-13. The assessee has raised following grounds of appeal:

“1. That learned CIT(Appeals) erred in law & fact by imposing an penalty u/s 271(1)(c) amounting to Rs. 1818851/-, while there was no concealment nor filing of an inaccurate particulars. Hence imposition of penalty u/s 271(1)(c) is amounting to Rs. 1818860/- is illegal arbitrary ought to be deleted.

2. *That Learned CIT(Appeals) erred in law & fact by imposing the penalty of Rs. 1818851/- while it was not initiated in assessment order passed u/s 143(3) / 254 of I.T. Act, 1961. Hence imposition of penalty amounting to Rs. 1818860/- is very very excessive arbitrary ought to be deleted.”*
2. As per office report, the appeal is barred by 43 days. The assessee has filed application seeking condonation of delay in filing the appeal and an affidavit by the Authorized Representative is also filed.
- 2.1 Learned DR opposed the submissions.
- 2.2 For the reasons stated in the application, I am satisfied that there was reasonable cause for delay in filing the appeal. Therefore, the delay is condoned and the appeal is taken up for adjudication.
3. Apropos to the grounds of appeal, learned counsel for the assessee at the outset submitted that in the quantum proceedings the matter was remanded by the Tribunal and the Assessing Authority has deleted the additions on the basis of which impugned penalty was imposed.
4. Learned DR placed reliance on the orders of the authorities below.
5. I have heard rival contentions and perused the material available on record. During the course of hearing the assessee has also filed assessment order passed pursuant to the directions of the Tribunal in quantum proceedings. As per the assessment order the AO had deleted the impugned additions. The Revenue has not

controverted these undisputed facts. Therefore, the impugned penalty would not survive as the addition in quantum, which was the very base for imposing penalty, has been deleted. I, therefore, direct the AO to delete the penalty. Grounds of appeal stand allowed.

6. Appeal of the assessee is allowed.

Order pronounced in open court on 8th February, 2024.

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

MP

Copy forwarded to:

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

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**