

**आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE**

**BEFORE SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER**  
**AND**  
**SHRI G.D. PADMAHSHALI, ACCOUNTANT MEMBER**

**आयकर अपील सं. / ITA No.1006/PUN/2023**  
**निर्धारण वर्ष / Assessment Year : 2011-12**

Dy. Commissioner of Income Tax,  
Circle – 1(1), Pune

.....अपीलार्थी / Appellant

**बनाम / V/s.**

CTR Manufacturing Industries Private Limited,  
Nagar Road, Vadgaon Sheri, SO Pune City,  
Pune – 411014

PAN : AAACC7256R

.....प्रत्यर्थी / Respondent

Assessee by : Shri Rajendra Agiwal  
Revenue by : Shri Ramnath P. Murkunde

सुनवाई की तारीख / Date of Hearing : 15-02-2024  
घोषणा की तारीख / Date of Pronouncement : 21-02-2024

**आदेश / ORDER**

**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the Revenue against the order dated 17-07-2023 passed by the National Faceless Appeal Centre ("NFAC"), Delhi for assessment year 2011-12.

2. The sole ground raised by the Revenue challenging the action of CIT(A), NFAC, Delhi in deleting the penalty levied u/s. 271(1)(c) of the Act without considering the fact of the assessee on account of bogus transactions in the facts and circumstances of the case.

3. The brief facts of the case as emanating from impugned order are that the assessee is a domestic company engaged in the business of manufacturing of Capacitors, Radiators for Transformers, Flange Mounted and Intank on Load Tap Changers and Explosion Prevention and Fire Extinguishing system for Transformers and Reactors. The assessee filed return of income on 30-09-2011 declaring a total income of Rs.21,80,23,238/- which was processed u/s. 143(1) of the Act. The AO completed the assessment determining the total income of the assessee at Rs.23,18,22,510/- inter alia making an addition of Rs.1,37,99,275/- on account of hawala purchases vide its order dated 28-03-2018. Aggrieved by the same, the assessee preferred an appeal before the CIT(A), NFAC, Delhi. The NFAC, Delhi dismissed the same. As matter stood thus, the AO initiated proceedings for levy of penalty u/s. 271(1)(c) of the Act. The assessee filed letter before the AO requesting to keep the penalty proceedings in abeyance as the appeal before the ITAT is pending. According to the AO, no submissions were filed by the assessee in the penalty proceedings and proceeded to impose penalty for concealment of income vide his order dated 28-03-2018. The CIT(A) by placing reliance on case laws held the penalty is not maintainable as it was imposed on the additions which were determined on estimation basis. The ld. DR relied on the order of AO.

4. Before us, the ld. AR vehemently contended that the quantum addition was restricted on estimation basis, the penalty imposed by the AO is not maintainable. On perusal of the penalty order dated 28-03-2018, we note that the AO initiated penalty proceedings u/s. 271(1)(c) of the Act on the addition which was made on estimation basis. It is settled law that no

penalty lies on the addition made on ad-hoc/estimation basis. As we noted that the ITAT in quantum appeal proceedings directed the AO to restrict the addition @10% of the alleged hawala purchases. The CIT(A) discussed the issue in detail and placing reliance on the decision, held that penalty cannot be levied in case where the addition is made on estimation basis. Admittedly, in the present case the addition was restricted by the ITAT @10% on alleged bogus purchases and no contrary order brought on record against the view taken by the ITAT. Therefore, we find no infirmity in the order of CIT(A) and it is justified. Thus, the penalty imposed by the AO u/s. 271(1)(c) is not justified. Thus, the ground raised by the Revenue is dismissed.

5. In the result, the appeal of Revenue is dismissed.

Order pronounced in the open court on 21<sup>st</sup> February, 2024.

Sd/-  
(G.D. Padmahshali)  
ACCOUNTANT MEMBER

Sd/-  
(S.S. Viswanethra Ravi)  
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 21<sup>st</sup> February, 2024.  
रवि

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.  
//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune