

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

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
MS ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 5359/DEL/2019 [A.Y. 2013-14]

Katyayani Jewels Pvt Ltd  
2192/63, 3<sup>rd</sup> Floor  
Gurudwara Road, Karol Bagh  
New Delhi

Vs.

The A.C.I.T.  
Circle - 14(1)  
New Delhi

PAN: AADCK 4055 D

(Applicant)

(Respondent)

Assessee By : Shri Bajrang Soni, CA

Department By : Shri Atiq Ahmed, Sr. DR

**Date of Hearing : 20.02.2024**

**Date of Pronouncement : 22.02.2024**

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-**

This appeal by the assessee is preferred against the order of the  
ld. CIT(A) -5, New Delhi dated 18.04.2019 pertaining to A.Y. 2013-14.

2. The solitary grievance of the assessee is that the Id. CIT(A) erred in confirming the penalty of Rs. 97,335/- levied by the Assessing Officer u/s 271(1)(c) of the Income-tax Act, 1961 [the Act, for short].

3. Briefly stated, the facts of the case are that assessment in this case was completed on 31.03.2016 at a total income of Rs. 4,07,05,450/- against the returned income of Rs. 2,36,08,810/-. Addition of Rs. 1,08,30,642/- was made towards excess stock and cash found during the survey and further addition of Rs. 62,66,000/- was made u/s 68 of the Act.

4. Assessment was challenged before the Id. CIT(A) and the Id. CIT(A) confirmed the addition of Rs. 3 lakhs on which separate penalty proceedings were initiated and penalty was levied at Rs. 97,335/-.

5. Before the Id. CIT(A), it was strongly contended that Rs. 3 lakhs was offered by the Director of the assessee company during the survey as additional income. The said income was added in hands of the company on which penalty has been levied. It was contended that since the offer was made by the Director, penalty should have been levied in his hands.

6. The contention of the assessee did not find any favour with the ld. CIT(A) who confirmed the levy of penalty u/s 271(1)(c) of the Act.

7, Before us, the ld. counsel for the assessee reiterated what has been stated before the ld. CIT(A).

8. Per contra, the ld. DR strongly supported the findings of the Assessing Officer.

9. We have carefully perused the orders of the authorities below. It is an undisputed fact that during the survey proceedings, the director of the assessee company offered Rs. 3 lakhs as additional income. It is true that addition has been made in the hands of the company and the assessee did not prefer any appeal, but the fact remains that survey proceedings were conducted in the premises of the assessee and the director of the assessee offered Rs. 3 lakhs as income.

10. The other additions made in the assessment of the assessee company around 1.70 crores have been deleted. In our considered opinion, contention of the assessee that income was offered by the director in his individual capacity cannot be brushed aside lightly and

cannot be considered as concealed income of the assessee. Therefore, we do not find any merit in the levy of penalty in the hands of the company. The Assessing Officer is directed to delete the same.

11. In the result, the appeal of the assessee in ITA No. 5359/DEL/2019 is allowed.

The order is pronounced in the open court on .02.2024.

**[ASTHA CHANDRA]  
JUDICIAL MEMBER**

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: FEBRUARY, 2024.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	