

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 167/DEL/2024

Assessment Year: 2016-17

Sobi Lal Saini, 14-D, Pocket-B, Siddhartha Extension, New Delhi-110014.	<u>Vs</u>	Income-tax Officer, Ward-3(4), Noida.
PAN- ATOPS5864R		
APPELLANT		RESPONDENT
Assessee represented by		Shri Mohit Sachdeva, CA
Department represented by		Shri Om Parkash, Sr. DR
Date of hearing		20.03.2024
Date of pronouncement		04.04.2024

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 11.12.2023, pertaining to the assessment year 2016-17. The assessee has raised following grounds of appeal:

“1. That the order of Ld. CIT (A) is contradictory to law and facts of the case to the extent he confirmed the penalty of Rs. 18,24,900/-. As a matter of fact, in the present case there was no concealment whatsoever since the claim of the appellant was ex- facie, disclosed during the assessment proceedings.

2. That the Ld. CIT (A) erred on facts and in law in upholding the action of the Assessing Officer in not appreciating that the penalty order was nonspeaking order and without application of mind.

3. *That the Ld. CIT (A) erred in not giving due weight to the facts that addition was made only after denying benefit of exemption on wrong interpretation of facts and the same observation was made by the Ld. CIT (A) in the order. The figures of capital gain were already on the file of Assessing Officer. The wrong claim of exemption in the return does not automatically attract penalty.*

4. *That the Ld. CIT (A) erred in not considering the submission of the appellant that AO has initiated penalty for concealment of income where as he has imposed penalty for furnishing in accurate particulars of income.*

5. *The appellant craves leave or reserving the right to amend, modify, alter, add or forgo any ground(s) of appeal.”*

2. Facts, in brief, are for A.Y. 2016-17 the assessee filed its return of income on 04.08.2016, declaring income of Rs. 23,14,620/-. The assessment was completed at Rs. 1,02,24,220/- by adding Rs. 79,09,601/- on account of long term capital gain. The AO initiated penalty proceedings u/s 271(1)(c) of the Income-tax Act, 1961 (the “Act”) for furnishing inaccurate particulars of income and vide penalty order dated 26.03.2022 imposed a penalty of Rs. 18,24,900/-. Aggrieved against it the assessee preferred appeal to the learned CIT(A), who vide impugned order dated 11.12.2023 dismissed the appeal by affirming the action of AO. Aggrieved against it, now the assessee is in appeal before this Tribunal.

3. Learned counsel for the assessee submitted that the assessee had claimed bona fide exemption in respect of land being agricultural and compensation was received as agricultural income. He submitted that the AO made addition by denying the bonafide claim of exemption. The figures of capital gain were already on the file of AO and therefore assessee had not concealed or furnished inaccurate particulars of income. He prayed for deletion of penalty in question.

4. Learned DR, on the other hand, relied on the orders of authorities below.

5. I have heard rival submissions and perused the material available on record. It is noticed that in the present case the AO has imposed penalty for furnishing inaccurate particulars in respect of capital gain received by the assessee on sale of agricultural assessee. The stand of the assessee is that under bona fide belief, in the return of income, he had claimed exemption of capital gain earned on compensation received on compulsory acquisition of agricultural land. Considering the facts and circumstances of the present case I am of the considered view that no deliberate act of furnishing inaccurate particulars of income or concealing particulars of income can be attributed to the assessee. Accordingly, I hereby cancel the penalty levied u/s 271(1)(c) of the Act. Grounds raised by the assessee are allowed.

6. Appeal of the assessee is allowed.

Order pronounced in open court on 4th April, 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