

**।आयकर अपीलीय अधिकरण न्यायपीठ नागपुरमें।
IN THE INCOME TAX APPELLATE TRIBUNAL,
NAGPUR BENCH : : NAGPUR**

[VIRTUAL HEARING AT PUNE]

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER**

**आयकरअपीलसं. / ITA No.393 & 397/NAG/2023
निर्धारणवर्ष / Assessment Year :2012-13 & 2010-11**

Nav Vidya Niketan Shikshan Sanstha, 1, AmbapethDhabaliya Niwas, Ambapeth, Amravati – 444601 PAN: AABTN1915G	V s	The Income Tax Officer, Ward-2 Exemption, Nagpur.
Appellant/ Assessee		Respondent/Revenue

Assessee by	Shri Mahavir Atal – CA(AR)
Revenue by	Shri Abhay Y. Marathe - Sr.DR
Date of hearing	28/03/2024
Date of pronouncement	22/04/2024

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

These two appeals filed by the assessee against the separate orders of Id.Commissioner of Income Tax(Appeals)[NFAC] under section 250 of the Act, emanating from the separate penalty orders under section 271(1)(c) of the Income Tax Act, 1961; both dated 13.06.2017 for A.Y.2012-

13 and 2011-12 respectively. Since facts of both appeals are similar, we take up appeal for A.Y.2010-11 as lead case, we proceed to dispose of these appeals by this consolidated order for the sake of convenience. The assessee for A.Y.2010-11 has raised the following grounds of appeal:

- 1. Whether on the facts and circumstances of the case, the Commissioner of Income Tax (Appeals) was justified in upholding the penalty levied by the Assessing Officer u/s 271(l)(c) even when the quantum proceedings were subjudiced and it was requested by the appellant to keep the penalty proceedings in abeyance till the disposal of quantum appeal.*
- 2. Whether the penalty u/s 271(l)(c) shall sustain in the case when the quantum orders have been passed by the Commissioner of Income Tax (Appeals) in favour of the appellant.*
- 3. The Appellant craves leave to add or alter any other ground that may be taken at the time of hearing.”*

1.1 The assessee for A.Y.2012-13 has raised the following grounds of appeal:

- 1. Whether on the facts and circumstances of the case, the Commissioner of Income Tax (Appeals) was justified in upholding the penalty levied by the Assessing Officer u/s 271(l)(c) even when the quantum proceedings were subjudiced and it was requested by the appellant to keep the penalty proceedings in abeyance till the disposal of quantum appeal.*
- 2. Whether the penalty u/s 271(l)(c) shall sustain in the case when the quantum orders have been passed by the*

Commissioner of Income Tax (Appeals) in favour of the appellant.

3. The Appellant craves leave to add or alter any other ground that may be taken at the time of hearing.

ITA No.397/NAG/2023 for A.Y. 2010-11

Submission of Id.AR :

2. The Id.Authorised Representative(Id.AR) of the assessee submitted that Id.CIT(A) vide his order dated 04.12.2023 has deleted the addition made under section 69C of the Act for A.Y. 2010-11 and A.Y.2012-13 by a common order. The Id.AR filed copy of the Id.CIT(A)'s order dated 04.12.2023, having DIN No.ITBA/APL/S/250/2023-24/1058439012(1).

Submission of Id.DR :

3. The Id.Departmental Representative(Id.DR) for the Revenue has accepted that Id.CIT(A) has deleted the quantum addition.

Findings & Analysis :

4. We have heard both the parties and perused the records. We have perused the common order passed by Id.CIT(A) for A.Y.2010-11 and A.Y.2012-13. The Id.CIT(A) deleted the

addition made under section 69C of the Act based on the Remand Report filed by the Assessing Officer(AO).

4.1 The present appeal is against penalty order under section 271(1)(c) of the Act levied on the basis addition made under section 69C of the Act for A.Y.2010-11 and A.Y.2012-13. Since the Id.CIT(A) has deleted the addition under section 69C of the Act, the penalty does not have any limbs to stand. In these facts and circumstances of the case, we direct the AO to delete the penalty levied under section 271(1)(c) of the Act. Accordingly, grounds of appeal filed by the assessee are allowed.

5. In the result, appeal of the assessee is allowed.

ITA No.393/NAG/2023 for A.Y.2012-13 :

6. As noted above, the facts of the present case are quite similar to the facts of the case as our observations made in No.397/NAG/2023, shall apply mutatis mutandis to the this appeal also. Accordingly, grounds of appeal raised by the assessee are allowed.

7. In the result, appeal of the assessee is allowed.

8. To sum up, both appeals of the assessee are allowed.

Order pronounced in the open Court on 22nd April, 2024.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 22nd April, 2024/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, नागपुर बेंच,
नागपुर/ DR, ITAT, Bench, Nagpur.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.