

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B": NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 4067/DEL/2019
Assessment Year: 2012-13**

Sewa Developers Pvt. Ltd., C/o M/s Rakesh Krishan & Associates, 19, Second Floor, Navyug Market, Ghaziabad-201001. PAN- AAICS1402M	<u>Vs</u>	DCIT, Circle-23(2), New Delhi.
APPELLANT		RESPONDENT
Assessee represented by	None	
Department represented by	Shri Vivek Kumar Upadhyay, Sr. DR	
Date of hearing	15.02.2024	
Date of pronouncement	01.05.2024	

ORDER

PER M. BALAGANESH, AM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals)-17, New Delhi, dated 04.01.2017, arising out of penalty order dated 30.09.2015 u/s 271(1)(c) of the Income-tax Act, 1961, passed by the DCIT, Circle-23(2), New Delhi, pertaining to the assessment year 2012-13.

2. None appeared on behalf of the assessee despite issuance of notice on several occasions. Since sufficient opportunities were already given to the assessee , we deem it fit to dispose of this appeal on hearing the Id. DR and based on materials available on record.

3. The only effective issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in confirming the levy of penalty on an adhoc addition.

4. We have heard the Id. DR and based on materials available on record. The return of income for the Asst Year 2012-13 was filed by the assessee company on 22.8.2012 declaring loss of Rs 43,66,099/-. The Id. AO in the scrutiny assessment proceedings observed that in response to the questionnaire issued by him, the authorized representative of the assessee company had furnished only part details and that there was no full compliance from the side of the assessee. The Id. AO observed that during the year under consideration, there was considerable increase in administrative expenditure of the assessee company when compared to that in the immediately preceding year. The assessee furnished a reply before the Id. AO that most of the documents were lost for which a complaint was filed with the police authorities. The Id. AO ignored the submissions and proceeded to make adhoc disallowance of expenditure of Rs 48,61,381/- in the assessment. Similarly, there was a fresh receipt of unsecured loan of Rs 11,29,271/- during the year under consideration, for which the assessee did not furnish any details. Accordingly, the same was added by the Id. AO treating the said loan as unexplained cash credit u/s 68 of the Act. Penalty u/s 271(1)(c) of the Act stood levied subsequently by the Id. AO in the sum of Rs 18,51,111/- on the aforesaid two additions by observing that both the additions had been accepted by the assessee by not preferring any appeal before the Id. CIT(A). This action of the Id. AO was upheld by the Id. CIT(A). But we find that the assessee vide Ground No.2 had stated that some of the additions were deleted by the Id. CIT(A) in quantum proceedings and that only one addition got ultimately sustained. No details in this regard were made available either by the

assessee or by the Id. DR before us to state the fact as to which of the additions were deleted or sustained by the Id. CIT(A) in quantum proceedings. Both the lower authorities had categorically stated that no appeal has been preferred by the assessee against the quantum proceedings. Considering these facts, the bench is of the opinion that this matter requires factual verification at the end of the Id. AO. Accordingly, in the interest of justice and fairplay, we deem it fit and appropriate to restore this appeal to the file of Id. AO for denovo adjudication in accordance with law. Needless to mention that the assessee be given reasonable opportunity of being heard. The assessee is also directed to co-operate with the Id. AO for expeditious disposal of the set aside proceedings by furnishing the requisite details in support of its contentions. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in open court on 01.05.2024.

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated:01.05.2024.

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI