

**IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'B', KOLKATA**

**BEFORE SHRI RAJESH KUMAR, HON'BLE ACCOUNTANT MEMBER  
AND SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER**

**ITA No. 88/Kol/2024  
Assessment Year: 2015-16**

Image Finvest & Leasing Pvt. Ltd. 200, Block-A, Bangur Avenue, Kolkata-700055 PAN: AAACI 5378 J (Appellant)	vs	ITO, Ward-11(4), Kolkata (Respondent)
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**Present for:**

Appellant by : Shri Anil Kochar, AR

Respondent by : Shri P.P. Barman, Addl. CIT, Sr. DR

Date of Hearing : 27.03.2024

Date of Pronouncement : 08.05.2024

**ORDER**

**PER SONJOY SARMA, JM:**

This appeal of the assessee for the assessment year 2015-16 is directed against the order dated 09.01.2024 passed by the ld. Commissioner of Income-tax (Appeals), NFAC, Delhi [hereinafter referred to as 'the ld. CIT(A)'].

2. Brief facts of the case are that assessment in the case of assessee was completed u/s 143(3) at Rs. 70,370/- after set off of brought forward business loss of Rs. 5,61,182/-. The ld. AO was observed from the profit & loss account that the assessee had written off liabilities to the tune of Rs. 3,97,596/-. However, while computing the total income in the return, the amount was not considered as income. The ld. AO confronted with the discrepancy during the course of assessment, a revised computation of income was filed by assessee at Rs. 5,40,861/- from Rs. 1,43,265/- after considering the written off liabilities. According to AO, assessee was not disclosed in

the return of Rs. 3,97,596/- at the time of filing of original return of income treated as undisclosed income. The ld. AO, thereafter initiated penalty proceedings u/s 271(1)(c) of the Act concealment of alleged undisclosed income in the hands of assessee. The ld. AO accordingly levied penalty u/s 271(1)(c) of the Act 100 percent of tax sought to be evaded of Rs. 1,22,856/-.

3. Aggrieved by the above order, assessee went into appeal where the appeal of the assessee was dismissed.

4. Dissatisfied with the above order, assessee is in appeal before this Tribunal. At the time of hearing, ld. AR stated that imposition of penalty u/s 271(1)(c) of the Act is not correct. He further stated that revised return of income was filed by the assessee before finalization of assessment, therefore, no penalty is leviable. On the other hand, ld. DR defended the imposition of penalty.

5. We after hearing the rival submissions of the parties and perusing the material available on record find that the question arises as to whether the penalty u/s 271(1)(c) could be imposed when the assessee revised its return before finalization of assessment. The revised return was regularized by the revenue and at the same time there is no loss to the revenue. The decision of the Hon'ble Apex Court in CIT vs Sureshchand Mittal, 251 ITR 9 and the ratio laid down by the Hon'ble M.P. High Court in CIT vs Shyamlal Soni 276 ITR 156 support our view. In present case, the assessee offered additional income before finalization of assessment order. The explanation given by the assessee in this regard is that such additional income was declared to buy peace and not to proceed with

further litigation. In the case of imposition of penalty u/s 271(1)(c), there was no concealment of income or furnishing inaccurate particulars of income. Therefore, the twin condition for imposition of penalty does not attract. Since the assessee filed its revised return before finalization of assessment order and there was no loss to the revenue, consequently, we delete the penalty by allowing the appeal of the assessee.

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

Order pronounced in the open court on 08.05.2024

**Sd/-**

**Sd/-**

**(Rajesh Kumar)**  
**ACCOUNTANT MEMBER**

**(SONJOY SARMA)**  
**JUDICIAL MEMBER**

Kolkata, Dated: 08.05.2024  
 Biswajit, Sr. P.S.

Copy to:

1. The Appellant: Image Finvest & Leasing Pvt. Ltd., 200, Block-A, Bangur Avenue, Kolkata-700 055.
2. The Respondent: ITO, Ward-11(4), Kolkata.
3. The CIT,
4. The CIT (A)
5. The DR

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By Order

Assistant Registrar  
 ITAT, Kolkata Benches, Kolkata