

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F': NEW DELHI**

**BEFORE,
SHRI G. S. PANNU, VICE PRESIDENT
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.1649/Del/2019
(ASSESSMENT YEAR 2011-12)**

Zoom Communication Private Ltd. B-10, Greater Kailash Enclave, Part-1 New Delhi-110048 PAN-AAACZ0080E	Vs.	ACIT Central Circle-17 New Delhi
(Appellant)		(Respondent)

Assessee by	Shri Manju Sabharwal, Adv.
Department by	Shri Vivek Vardhan, Sr. DR
Date of Hearing	21/03/2024
Date of Pronouncement	04/06/2024

ORDER

PER ANUBHAV SHARMA, JM:

This appeal of the Assessee arises out of the order of the Learned Commissioner of Income Tax (Appeals)-27, New Delhi [hereinafter referred to as 'Ld. CIT(A)'] in Appeal No.59/2018-19 dated 25/01/2019 against the order passed by Asst. Commissioner of Income Tax, Central Circle-17, New Delhi (hereinafter referred to

as the 'Ld. AO' u/s 271(1)(c) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on 31/03/2018.

2. Heard and perused the record.

3. At the time of hearing, the Ld. AR has preliminary argued on additional ground and submitted that as such assessee was issued notice for the purpose of section 271(1) (c) of the Act but the specific limb, as was applicable, was not struck off and thus being ambiguous the exercise of jurisdiction for the purpose of section 271(1)(c) to levy penalty is vitiated.

3.1 However, the Ld. DR has defended the order submitting that in the assessment there was both finding of concealment of income and of furnishing inaccurate particulars, therefore, on this ground, the proceedings cannot be vitiated.

4. We have given thoughtful consideration to the matter before us and it comes up admittedly in the notice issued, there was no specific mention as to under which limb, specifically the notice is issued. At the same time as we peruse the assessment order it comes up that the AO after making the additions/disallowance, made an observation that for furnishing inaccurate particulars

proceedings u/s 271(1)(c) are being initiated. In the light of the aforesaid, we are convinced that the ambiguity in the charge vitiates the levy of penalty. The additional ground thus raised is sustained. The appeal of the assessee is allowed. The impugned penalty order is set aside.

5. In the result, the appeal filed by the assessee is allowed
Order pronounced in the Open Court on 04/06/2024.

Sd/-

(G.S.PANNU)
VICE PRESIDENT

Dated: 04/06/2024

PK/PS

Copy forwarded to:

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

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI