

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC" NEW DELHI**

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

आ.अ.सं./I.T.A No.1193/Del/2024

निर्धारणवर्ष/Assessment Year: 2012-13

Virender Kumar Village Girdarpur Sunarsi, Greater Noida, Gautam Budh Nagar, Uttar Pradesh.	बनाम Vs.	Income Tax Officer A-2D, Sector-24, Noida, Gautam Budh Nagar, Uttar Pradesh.
PAN No. AOVPK2804F		
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

निर्धारितीकीओरसे /Assessee by	Shri Raghuraj Singh, Adv.
राजस्वकीओरसे /Revenue by	Shri Sanjay Sharma, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	05.12.2024
उद्घोषणाकीतारीख/Pronouncement on	06.12.2024

आदेश /O R D E R

This appeal is filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi for the AY 2012-13 in sustaining the penalty levied u/s 271(1)(c) of the Act.

2. Ld. Counsel for the assessee, at the outset, submits that this appeal was decided *ex parte* by the Ld.CIT(A) dismissing the appeal of the assessee. Ld. Counsel also submitted that the quantum appeal was also decided *ex parte* by the Ld.CIT(A) and on further appeal to the Tribunal the Tribunal by order dated 20.06.2024 in ITA No.1226/Del/2024 restored the quantum appeal to the file of

the Ld.CIT(A) for fresh adjudication in accordance with law after giving reasonable opportunity of hearing to the assessee. Ld. Counsel for the assessee, therefore, requested that since the quantum appeal is restored to the file of the Ld.CIT(A) the *ex parte* order passed by the Ld.CIT(A) dismissing the appeal of the assessee and confirming the penalty levied u/s 271(1)(c) of the Act may also be restored to the file of the Ld.CIT(A) for fresh adjudication along with the quantum appeal after providing adequate opportunity of hearing.

3. Ld. DR has no serious objection in restoring the matter to the file of the Ld.CIT(A) for deciding the appeal after providing an opportunity to the assessee.

4. On hearing both the sides and perusing the record before me, it is observed that the quantum appeal has been restored to the file of the Ld.CIT(A) by the Tribunal in ITA No. 1226/Del/2024 dated 20.06.2024 to decide afresh after providing adequate opportunity to the assessee. The appeal now before me is against the penalty levied u/s 271(1)(c) of the Act and the appeal is decided *ex parte* by the Ld.CIT(A). Since the quantum had already been restored to the file of the Ld.CIT(A), I feel it appropriate to restore this appeal to the file of the Ld.CIT(A) to decide along with the quantum

appeal. Thus, this appeal is restored to the file of the Ld.CIT(A) for fresh adjudication in accordance with law after providing adequate opportunity to the assessee.

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

Order pronounced in the open court on 06/12/2024

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Dated: 06/12/2024

**Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT
(DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi