

**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.3729/Del/2023

निर्धारणवर्ष/Assessment Year: 2011-12

Paramount Industrial Securities Private Limited, 352, Gali No.16, Bhikam Colony, Ballabgarh, Faridabad, Haryana.	बनाम Vs.	Income Tax Officer Ward-19(3), Delhi.
<b>PAN No. AAACP6978P</b>		
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

निर्धारितकीओरसे /Assessee by	Shri Ajay Nagar, Director
राजस्वकीओरसे /Revenue by	Shri Sanjay Kumar, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	04.12.2024
उद्घोषणाकीतारीख/Pronouncement on	13.12.2024

**आदेश /ORDER**

This appeal is filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi dated 20.10.2023 for the AY 2011-12 in sustaining the penalty levied u/s 271(1)(c) of the Income Tax Act, 1961.

2. The Ld. Counsel for the assessee, at the outset, submits that the assessment in the case of the assessee was completed u/s 144 r.w.s. 147 of the Act on 09.12.2018 determining the income at

Rs.8,47,824/- by making addition of Rs.8,47,824/- on account of undisclosed contractual receipts. The Assessing Officer (AO) passed penalty order dated 28.06.2019 levying penalty of Rs.2,61,977/- on the addition of Rs.8,47,824/- made in the quantum assessment. Ld. Counsel submits that when the assessee appealed against the addition made towards undisclosed contractual receipts, the Ld.CIT(Appeals) by order dated 25.06.2024 restricted the addition to Rs.1,27,374/- as against Rs.8,47,824/- made in the assessment order. The Ld. Counsel submits that the Ld.CIT(Appeals)-NFAC sustained the penalty levied by the AO on the entire addition of Rs.8,47,824/- observing that the assessee did not file appeal in quantum addition which is factually incorrect. The Ld. Counsel invited the attention of the Bench to the consequential order dated 30.11.2024 passed by the AO giving effect to the order of the Ld.CIT(Appeals) in quantum proceedings, wherein the income was revised to Rs.1,27,374/- as against Rs.8,47,824/-. Therefore, the Ld. Counsel submits that there is no justification in sustaining the penalty of Rs.2,61,977/- u/s 271(1)(c) of the Act on the addition of Rs.8,47,824/- made in the assessment order.

3. Heard rival submissions, perused the orders of the authorities below. On perusal of the record before me it is observed that the

Ld.CIT(Appeals)-NFAC sustained the penalty levied u/s 271(1)(c) of the Act on the entire addition of Rs.8,47,824/- when in fact the addition was restricted to Rs.1,27,374/- by the Ld.CIT(A) in quantum proceedings. Consequential order was also passed to that effect bringing down the addition to Rs.1,27,374/-. However, it is observed that the penalty was levied u/s 271(1)(c) of the Act on the addition of Rs.8,47,824/- when the addition was made in the quantum proceedings. Since the addition has been reduced substantially by the Ld.CIT(A) in quantum proceedings and also the consequential order was also passed by the AO, penalty cannot be sustained on the addition made in quantum proceedings. Thus, the order passed by the AO dated 28.06.2019 levying penalty of Rs.2,61,977/- u/s 271(1)(c) of the Act on the quantum addition of Rs.8,47,824/- is set aside. The issue of levy of penalty u/s 271(1)(c) of the Act is restored to the file of the AO to pass a fresh order in accordance with law after taking cognizance order passed by the Ld.CIT(A) in quantum proceedings and the consequential order dated 30.11.2024 passed giving effect to the order of the Ld.CIT(Appeals), in accordance with law after providing adequate opportunity to the assessee.

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

Order pronounced in the open court on 13/12/2024

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

Dated: 13/12/2024

*\*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