

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

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**ITA No. 35/DDN/2024
निर्धारणवर्ष/Assessment Year: 2017-18**

ANIL KUMAR KHANDELWAL, H.No.90, Hira Nagar, Haldwani Distt. Nainital, Uttarakhand.	बनाम Vs.	CIT APPEAL NFAC, NATIONAL FACELESS APPEAL CENTRE, INCOME TAX DEPARTMENT, Delhi.
PAN No.ABWPK1639C		
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

Assessee by	Shri Akshay Aggarwal, Adv.
Revenue by	Shri Amarपाल Singh, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	06.05.2025
उद्घोषणाकीतारीख/ Pronouncement on	16.05.2025

आदेश /O R D E R

PER C.N. PRASAD, J.M.

This appeal is filed by the assessee against the order of the Ld. CIT(Appeals)-NFAC, Delhi dated 07.02.2024 for the AY 2017-18 in sustaining the penalty levied u/s 271AAC of the Act.

2. Ld. Counsel for the assessee submitted that the Tribunal vide its order in ITA No.43/DDN/2021 dated 23.06.2023 deleted the addition/disallowance made in the assessment order passed u/s 143(3) of the Act. Ld. Counsel submits that since the impugned penalty order was passed on the basis of the addition/disallowance made in the assessment order made u/s 143(3) has been set aside by the Tribunal the penalty levied u/s 271AAC has no legs to stand.

3. On perusal of the order of the Tribunal, we observed that the quantum addition made in the assessment order passed u/s 143(3) has been deleted by the Tribunal in its order dated 23.06.2023. Therefore, the penalty levied on the basis of such addition which was made while completing the assessment u/s 143(3) will not survive. Thus, we direct the Assessing Officer to delete the penalty levied u/s 271AAC for the assessment year under consideration. Grounds raised by the assessee are allowed.

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

Order pronounced in the open court on 16/05/2025

Sd/-
(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER

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

Dated: 16.05.2025

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

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI