

**IN THE INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH 'SMC': AGRA**

**BEFORE SHRIS.RIFAUR RAHMAN, ACCOUNTANT MEMBER
and
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No.341/DEL/2025
(Assessment Year: 2014-15)**

K.P. Enterprises,
216-C, Friends Colony,
Etawah – 206 001 (Uttar Pradesh).

vs.

ACIT,
Circle 2(2)(1),
Firozabad.

(PAN : AAHFK8524C)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Rajesh Malhotra, CA
REVENUE BY : Shri Shailendra Srivastava, Sr.DR

Date of Hearing : 14.10.2025
Date of Order : 28.10.2025

ORDER

PER S.RIFAUR RAHMAN,AM:

1. This appeal is filed by the assessee against the order of Id. Commissioner of Income-tax Appeals/National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. CIT (A)'] dated 10.06.2025 for Assessment Year 2014-15 affirming the penalty order dated 15.02.2022 passed under section 271(1)(c) of the Income-tax Act, 1961 (for short 'the Act').
2. This appeal is filed by the assessee against the penalty order under section 271(1)(c) the Act. In the penalty order, the AO observed that the assessee firm was in the business of civil contracts and working for Government

department during the period relevant to the AY 2014-15 and it filed its return of income on 26.11.2014 for the year under consideration declaring total income at Rs.41,98,630/-. Subsequently, this case was selected for scrutiny under CASS and the assessment was completed u/s 143(3) on 24.12.2016. During the course of assessment proceedings, the Assessing Officer requested the assessee to produce complete books of accounts and bills/vouchers in support of its claim. But the assessee had not furnished proper supporting evidence and justification thereof. Hence the Assessing officer had completed the assessment u/s 143(3) on 24.12.2016 after rejecting the books of account u/s 145(3) and computed the assessee's total income at Rs.56,90,124/- estimating the income from contract work @ 8%.

3. After completion of the assessment u/s 143(3) dt. 24.12.2016, the Assessing officer had passed a revision order u/s 154 on 02.05.2018 by disallowing the deduction of royalty of Rs.4,36,815/- and trade-tax of Rs.43,02,056/- which were allowed while computing the assessed income in the order passed u/s 143(3) on 24.12.2016 and revised the income at Rs.60,69,234/-. Thereafter, the assessee had filed appeal before the CIT (A) against the order passed u/s 143(3) dt.24.12.2016 and the ld. CIT(A) had passed his order dated 31.07.2019 and directed the Assessing Officer to compute the net profit of the assessee firm @ 7% of the sum of total turnover and FDR interest receipts (i.e. 7% of Rs.9,18,61,522 + Rs.16,90,600). The ld. CIT(A) had

arrived at the net profit at Rs.65,48,649/- before deduction of salary and interest to partners instead of Rs.74,93,898 computed by the AO in the assessment order. Further the assessee went on appeal against the revision order passed u/s 154 on 02.05.2018 before the Id.CIT(A) who had deleted the addition vide his order dated 31.07.2019. Accordingly, the Assessing officer had passed a revision order on 17.09.2019 by giving effect to the CIT(A)'s order and revised the assessee's total income at Rs.47,44,875/-. Accordingly, in the penalty proceedings, the AO observed that the assessee had concealed the particulars of income and calculated the penalty amount on the concealed income at Rs.1,68,789/- @ 100% of the tax sought to be evaded.

4. At the time of hearing, Id. AR of the assessee brought to our notice that the AO made the addition on estimate basis @ 8% and the Id. CIT (A) reduced the same also on estimation basis @ 7%. He pleaded that penalty cannot be imposed on the income which is on the basis of estimation basis. In this regard, he relied on a number of cases and heavily relied on the decision of the coordinate Bench in the case of Pawan Kumar Gupta in ITA No.3504 & 3505/Del/2024 order dated 07.02.2025 and prayed that the above penalty imposed in the assessment year under consideration be deleted.
5. On the other hand, Id. DR of the Revenue relied on the orders of the lower authorities.
6. Considered the rival submissions and material placed on record. We observe that the AO made the addition on estimate basis @ 8% and the Id. CIT (A) reduced the

same also on estimation basis @ 7%. . We observe that the Assessing Officer made the penalty u/s 271(1)(c) of the Act@ 100% tax sought to be evaded i.e. Rs.1,68,789.which was sustained by the ld. CIT (A). We observe that the assessee is aggrieved against confirmation of penalty on the basis of estimated addition made in quantum assessment. Further we observe that bearing in mind the fact that the related quantum addition was purely on estimated basis with inherent subjectivity involved, we are of the opinion that no penalty is warranted. For taking such an action, we rely on the following decisions of Hon'ble High Courts wherein Hon'ble High Courts have upheld the action of the Tribunal deleting penalty levied on estimated quantum addition as under :-

- (i) Hon'ble Delhi High Court in the case of PCIT 7 vs. Sara Sae (P) Ltd.
- (ii) ITAT Delhi Bench in Pawan Kumar Gupta in ITA Nos.3504 & 3505/Del/2024
- (iii) CIT vs. Krishi Tyre Retreadign and Rubber Industries 360 ITR 580 (Raj.);
- (iv) CIT vs. Sangrur Vanaspati Mills Ltd. 303 ITR 53 (P&H); and
- (v) CIT vs. Subhash Trading Co. Ltd. 221 ITR 110 (Guj.)

7. Thus, as noted above, the issue as to whether the penalty u/s 271(1)(c) of the Act be levied on estimated quantum addition is no longer res-integra, therefore, we are inclined to direct the deletion of the penalty levied in the year under consideration.
8. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on this 28th day of October, 2025

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

**sd/-
(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Dated: 28.10.2025
TS**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI