

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B': NEW DELHI

BEFORE SHRI G.D. AGRAWAL, VICE PRESIDENT AND
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.1420/Del/2012
Assessment Year : 2005-06

Shri Deepak Gupta,
alias Shri Rocky Gupta,
C/o Shri D.M. Sinha
(Advocate),
108/109, Karkardooma,
Community Centre,
Plot No.20,
(Parmesh Business Centre),
Delhi – 110 092.
PAN : AAHPG8039Q.

Vs. Income Tax Officer,
Ward-34(4),
New Delhi.

(Appellant)

(Respondent)

Appellant by : Shri D.M. Sinha, Advocate.
Respondent by : Shri Anil Kumar Sharma, Senior DR.

Date of hearing : 07.12.2016
Date of pronouncement : 16.12.2016

ORDER

PER G.D. AGRAWAL, VP :-

This appeal by the assessee for the assessment year 2005-06 is directed against the order of learned CIT(A)-XIX, New Delhi dated 20th January, 2012.

2. The only ground raised by the assessee is against the confirmation of penalty of ₹3,11,920/- which was levied by the Assessing Officer u/s 271(1)(c) of the Income-tax Act, 1961.

3. At the time of hearing before us, it was pointed out by the learned counsel that the Assessing Officer had levied the penalty u/s

271(1)(c) in respect of addition of ₹10,15,000/-. It was pointed out by the learned counsel that in the quantum appeal, learned CIT(A) has sustained the addition of only ₹70,000/- and deleted the balance addition. He, therefore, submitted that the levy of penalty on the entire assessed income of ₹10,15,000/- is uncalled for. The same should be cancelled.

4. Learned DR, on the other hand, relied upon the orders of authorities below.

5. We have heard the arguments of both the sides and have perused the material placed before us. Admittedly, no penalty can be levied in respect of the addition which is deleted by learned CIT(A). From the order of learned CIT(A), we find that he had confirmed the addition of ₹70,000/- and has also directed that it should be treated as income from undisclosed sources. No argument has been advanced by the assessee with regard to levy of penalty on the addition of ₹70,000/- as undisclosed income sustained by the CIT(A). We are, therefore, of the opinion that the penalty in respect of the addition of ₹70,000/- is sustainable. We direct the Assessing Officer to levy the minimum penalty with regard to the addition of ₹70,000/- sustained by the learned CIT(A) as income from undisclosed sources.

6. In the result, the appeal of the assessee is partly allowed.

Decision pronounced in the open Court on 16.12.2016.

Sd/-

(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

Sd/-

(G.D. AGRAWAL)
VICE PRESIDENT

VK.

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1. Appellant : **Shri Deepak Gupta, alias Shri Rocky Gupta,
C/o Shri D.M. Sinha (Advocate),
108/109, Karkardooma, Community Centre,
Plot No.20, (Parmesh Business Centre),
Delhi – 110 092.**
2. Respondent : **Income Tax Officer, Ward-34(4), New Delhi.**
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar