

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'F' NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

ITA No.8065/Del/2019
Assessment Year: 2015-16

M/s. Royal Rubber Works, 1580, Bhagirath Palace, G.T. Road, Karnal Road, Chandini Chowk, Delhi	Vs.	Income Tax Officer, Ward-47(5), New Delhi
PAN :AAAFR4045E		
(Appellant)		(Respondent)

Appellant by	Sh. K. Sampath, Advocate Sh. V. Rajakumar, Advocate
Respondent by	Ms. Indu Sen, Sr. DR

Date of hearing	29.06.2022
Date of pronouncement	15.07.2022

ORDER

PER SAKTIJIT DEY, JM:

This is an appeal by the assessee against order dated 10.07.2019 of learned Commissioner of Income Tax (Appeals)-16, New Delhi, confirming the penalty imposed under section 271(1)(c) of the Income-tax Act, 1961 (for short 'the Act') for the assessment year 2015-16.

2. Briefly the facts are, the assessee is a partnership firm. For the assessment year under dispute, the assessee filed its return of income on 30.09.2015 declaring income of Rs.2,67,730/-. In course of assessment proceeding, the Assessing Officer, on examination of the balance-sheet of the assessee, found that the assessee has shown sundry creditors of Rs.88,97,485/-. Noticing this, the Assessing Officer called upon the assessee to provide the complete details of sundry creditors along with confirmed copy of ledger account. As observed by Assessing Officer, the assessee could only furnish the name and address of the parties. As has been observed by the Assessing Officer, in response to the notices issued under section 133(6) of the Act, in some of the cases reply was received. Whereas, in some other cases no reply was received. Thus, holding that the genuineness of the sundry creditors remained unverifiable, the Assessing Officer added back the amount of Rs.34,34,837/-. Based on such addition, the Assessing Officer initiated proceeding for imposition of penalty under section 271(1)(c) of the Act alleging furnishing of inaccurate particulars of income and ultimately passed an order imposing penalty of Rs.11,44,094/-. Against the penalty order so passed, the assessee preferred an appeal before learned Commissioner (Appeals). While

considering the appeal of the assessee, learned Commissioner (Appeals) found that while deciding the quantum appeal of the assessee, the Tribunal has deleted the amount of Rs.30,91,548/- out of the addition made by the Assessing Officer, while sustaining the addition to the extent of Rs.3,43,289/-. Accordingly, he confirmed penalty imposed under section 271(1)(c) of the Act on the addition of Rs.3,43,289/-.

3. We have considered rival submissions and perused the materials on record. Undisputedly, the addition based on which the Assessing Officer imposed penalty under section 271(1)(c) of the Act was on account of sundry creditors. While deciding the quantum appeal of the assessee, the Tribunal has deleted the major part of the addition, accepting assessee's submission that such amount was not credited in the books of account during the year. Addition of Rs.3,43,289/- was sustained only on the ground that it was credited to the books of account during the year.

4. Before us, learned counsel for the assessee has submitted that the Assessing Officer has accepted the sales and purchases. He has further submitted that subsequently the amount was repaid. Thus, considering the quantum of addition sustained by the Tribunal and also the fact that assessee has paid back the

amount to the creditors, we are of the view that the assessee cannot be accused of furnishing inaccurate particulars of income. Merely because no reply was received from the creditors, it cannot be presumed that they are non-genuine. Accordingly, we delete the penalty imposed under section 271(1)(c) of the Act.

5. In the result, the appeal is allowed.

Order pronounced in the open court on 15th July, 2022

Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 15th July, 2022.

RK/-

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1. Appellant,
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi