

**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH KOLKATA
BEFORE
SHRI PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER
AND SHRI RAKESH MISHRA, ACCOUNTANT MEMBER
ITA No. 1149/KOL/2024
Assessment Year: 2013-14**

Raj Kumar Agarwal HUF 15, Ganagdhur Babu Lane, Eden House, Bow Bazar, Kolkata – 700012, West Bengal	Vs	Asst. CIT, Circle 37, Kolkata, 3, Govt. Place, Kolkata – 700001, West Bengal
(Appellant)		(Respondent)
PAN: AAHHR3501E		

Present for:

Appellant by : Shri S. S. Gupta, FCA
Respondent by : Shri Sailen Samadder, Addl. CIT,
Sr. D.R.

Date of Hearing : 24.12.2024
Date of Pronouncement : 01.01.2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Ld. Commissioner of Income Tax (Appeals), NFAC, New Delhi (hereinafter referred to as “the Ld. CIT (A)”) passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for AY 2013-14 dated 09.05.2024, which has been passed against the penalty order u/s 271(1)(c) of the Act, dated 12.08.2022.

2. The assessee has raised the following Grounds of appeal:

1. That the Ld. Asst. CIT erred in law as well as in facts in passing the order appealed against in as much as in view of the facts and circumstances of the case, no such order was at all liable to be passed and the Ld. CIT(A) erred in confirming the same.

2. That the Ld. Asst. CIT erred in law as well as in facts in levying a penalty u/s 271(1)(c) of the Income Tax Act, 1961, for a sum of Rs. 14,48,660/- and the Ld. CIT(A) erred in confirming the same in as much as in view of the facts and circumstances of the case no such penalty was at all liable to be levied.

3. That no penalty u/s 271(1)(c) was liable to be levied in as much as the appellant assessee had offered an explanation which was material to Computation of Total Income and had also substantiated and proved that the explanation is bonafide and all facts relating to the same and material to the Computation of Total Income were disclosed by the appellant assessee.

4. That the additional income offered in the Return of Income filed u/s 148 was disclosed voluntarily as the said disclosure having been made even before the reasons were furnished to the assessee and in such circumstances, no penalty u/s 271(1)(c) is liable to be levied.

5. That the appellant craves leave to add, alter, change and/or modify any of the grounds of appeal at or before hearing of the appeal and claim further relief or reliefs which is necessary for the ends of justice.

3. At the outset, it was informed by the Ld. AR that the assessee has availed the Vivad se Vishwas, 2024 scheme. Since the assessee has opted for the Vivad Se Vishwas Scheme, hence the present appeal was requested to be withdrawn. The Ld. DR did not object to the withdrawal of the appeal.

4. As per S. No. 10 of the Guidance Note 1/2024 on provisions of the Direct Tax Vivad se Vishwas Scheme, 2024 dated 15th October, 2024, it is mentioned that as per section 91 (2) of the Scheme, after filing of declaration, appeals before ITAT/CIT(A)/ JCIT(A) are deemed to be withdrawn from the date of issue of certificate by the Designated Authority. Further as per section 91(3) of the Scheme, the taxpayer is required to withdraw appeals and furnish proof thereof along with intimation of payment u/s 92(2) of the Scheme. Since the assessee has requested for withdrawal of the appeal, he is permitted to withdraw the same and the appeal is dismissed as withdrawn. However, if the subsequent facts warrant that the appeal



should be heard on merits, the assessee shall be at liberty to file a Miscellaneous Application for restoration of the appeal.

5. In the result, the appeal of the assessee is dismissed as withdrawn.

Order pronounced in the Court on 1st January, 2025 at Kolkata.

Sd/-

(PRADIP KUMAR CHOUBEY)
JUDICIAL MEMBER

Sd/-

(RAKESH MISHRA)
ACCOUNTANT MEMBER

Kolkata, Dated 01.01.2025

**SS, Sr.Ps*



आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

Sr. PS/ Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata

Sr. No.	Particulars	Date	Initials	Person concerned
1	Drafted on	18.11.2024		Sr.PS
2	Draft placed before author			Sr.PS
3	Draft proposed & placed before the second Member			AM
4	Draft discussed/ approved by Second Member			AM
5	Approved Draft comes to the Sr.PS/ PS			Sr.PS
6	Kept for pronouncement on			Sr.PS
7	File sent to the Bench Clerk			Sr.PS
8	Date on which file goes to the Head Clerk			
9	Date of dispatch of Order			
10	Dictation Sheet is attached herewith	No		