

**THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH, DELHI**

**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER &
SHRI KHETTRA MOHAN ROY, ACCOUNTANT MEMBER**

**ITA No.5456/Del/2024
(Assessment Year 2017-18)**

Ram Lakhan 8/252, T- Huts Industrial Area, Kirti Nagar, West Delhi, Ramesh Nagar, Delhi - 110015	Vs.	DCIT, Central Circle-17 NCC, DIT(S) Jhandewalan, Extn. New Delhi – 110055
स्थायीलेखासं. / जीआइआरसं. / PAN/GIR No: AFYPR1596R		
Appellant	..	Respondent

Appellant by :	Sh. Paritosh Jain, Adv
Respondent by :	Ms. Harpreet Kaur Hansra, Sr. DR

Date of Hearing	29.05.2025
Date of Pronouncement	30.05.2025

ORDER

PER MADHUMITA ROY, JM:

The instant appeal filed by the assessee is directed against the order dated 18.10.2024 passed by the Ld. CIT(A)-27, New Delhi, arising out of the order dated 25.09.2023 passed by the DCIT, Central Circle - 17, New Delhi, under Section 274 r.w.s 270A of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’) for Assessment Year 2017-18.

2. The assessment has been framed by the Ld. AO on 31.03.2023 upon making addition of Rs.1,17,000/- on estimated basis being 10% of income @ 7500 per tempo in 13 tempos whereas assessee was running 10 tempos owned by him.

3. Penalty proceeding was also initiated under Section 270A of the Act. The order of penalty was finalized imposing penalty of Rs.15,601/- by and under the order date 25.09.2023 passed by the Central Circle-17, New Delhi which was further confirmed by the First Appellate Authority. Hence, the instant appeal before us.

4. At the very threshold of the matter, it was contended by the Ld. Counsel appearing for the assessee Sh. Paritosh Jain that the addition has been made on estimation of income of the assessee as narrated hereinbefore. However, it is the settled principle of law that penalty cannot be levied on the addition based on estimation. In this regard he has relied upon few judicial pronouncements along with order passed by the Coordinate Bench dated 15.01.2025 wherein order imposing penalty on the basis of addition made on estimation having been found unsustainable in the eyes of law a copy whereof has duly been submitted before us.

The ld. DR on the hand could not controvert such submission made by the Ld. AR.

5. Having heard the Ld. Counsels appearing for the parties and having regard to the facts and circumstances of the matter particularly keeping in view the order of penalty having been issued on the basis of addition made by the Ld. AO on estimating income of the assessee from

running 13 more tempos at @ 10% per month, receipts x 12 months x 13 tempos, the same is found to be unsustainable in the eyes of law as already been decided by the Coordinate Bench in assessee's own case by and under the order dated 15.01.2025 respectfully relying upon the same the impugned penalty is found to be not sustainable in the eyes of law and therefore, quashed.

6. The appeal of the assessee is allowed.

Order pronounced in the open court on 30.05.2025

Sd/-
(Khettra Mohan Roy)
ACCOUNTANT MEMBER

Sd/-
(Madhumita Roy)
JUDICIAL MEMBER

Dated 30.05.2025

Rohit, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT NEW DELHI