

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SH. YOGESH KUMAR US, JUDICIAL MEMBER  
(THROUGH VIDEO CONFERENCING)**

ITA No.153/Del/2021  
Assessment Year: 2006-07

<b>Babli Kukreja C-59, Friends Colony East, New Delhi-110065 PAN No.AAMPK7553L</b>	<b>Vs</b>	<b>ACIT Central Circle-15 New Delhi</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. R. S. Ahuja, CA
Respondent by	Shri Kanav Bali, Sr. DR

Date of hearing:	21/02/2022
Date of Pronouncement:	21/02/2022

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal by the assessee is preferred against the order of the CIT(A)-23, New Delhi dated 31.12.2020 pertaining to A.Y.2006-07.

2. The sum and substance of the grievance of the assessee is that the CIT(A) erred in confirming the penalty levied u/s. 271 (1) (c) of the Act by the AO amounting to Rs.37,65,704/-.

3. At the very outset the counsel for the assessee stated that the impugned addition on which the penalty has been levied has been

deleted by the Tribunal vide order dated 27.09.2021 in ITA No.2479/Del/2017.

4. The DR fairly conceded to this.

5. We have carefully perused the orders of the authorities below. We find force in the contention of the Counsel. This Tribunal in ITA No.2479/Del/2017 for A.Y.2006-07 at the occasion to decide on the quantum addition and after considering the detailed submissions this Tribunal held as under :-

13. The first argument of the learned authorised representative is that assessment year 2006 – 07 is a concluded assessment on the date of the search and no addition could have been made in the hands of the assessee in absence of any incriminating material found during the course of search. It is also the claim of the learned authorised representative that the addition has been made merely on the basis of the report of the District valuation Officer. For Assessment Year 2006-07 the assessee filed her return of income on 28.07.2006. The search took place on 10.11.2010, therefore, at the time of search the assessment for this assessment year was a concluded assessment. Same could have been only disturbed if there would have been any incriminating material found during the course of search. In the order of the Id AO as well as the Id CIT(A), we do not find that any incriminating material found during the course of search which even remotely shown that assessee has made a payment beyond what is recorded in her books of account for purchase of land and shown in the purchase deed of the property. The total addition of Rs. 1,10,67,000/- is made by the Id AO based on the report of the DVO. Further, the addition on account of cost of construction was also made on the basis of estimation of DVO determining the cost of construction. The Hon'ble Delhi High Court in CIT Vs. Kabul Chawla 380 ITR 573 categorically stated that in concluded assessment no addition could have been made in the hands of the assessee in absence of any incriminating material found during the course of search. The Id CIT(A) also

called for remand report where the ld AO records that no incriminating material was found during the course of search. In view of this, as per ratio laid down by the Hon'ble Delhi High Court, we delete the addition made by the ld AO to Rs. 1,10,67,000/- on account of purchase price of land as well as the addition of Rs. 1,04,941/- on account of cost of construction for the reason that there is absence of any incriminating material found during the course of search supporting the above addition.

14. Accordingly, ITA No. 2479/Del/2017 filed by the assessee and subsequently ground No. 1 and 2 of the assessee are allowed.
15. As we have held that there is no incriminating material found during the course of search the addition made by the ld AO is deleted hence other grounds does not deserve to be adjudicated.

6. Since the quantum addition has been deleted, we do not find any merits in the levy of penalty u/s. 271 (1) (c) of the Act. We accordingly direct the AO to delete the penalty so levied.

7. In the result, the appeal filed by the assessee is allowed.

8. The order is pronounced in the open court on 21.02.2022 in the presence of both the rival representatives.

Sd/-  
**(YOGESH KUMAR US)**  
**JUDICIAL MEMBER**

Sd/-  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

\*NEHA\*

Date:-21.02.2022

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	21.02.2022
Date on which the typed draft is placed	

before the dictating Member	
Date on which the typed draft is placed before the Other member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	21.02.2022
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	