

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD 'A' BENCH, HYDERABAD.**

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER AND
SHRI L. P. SAHU, ACCOUNTANT MEMBER
(Through Virtual Hearing)**

**ITA No.1179/Hyd/2019
(Assessment Year : 2012-13)**

C3i Support Services Pvt. Ltd.,
Hyderabad.
PAN AACCC2082P

.....Appellant.

Vs.

Dy. Commissioner of Income Tax,
Circle 1(2), Hyderabad.

.....Respondent.

Appellant By : Shri Arpit Goyal.
Respondent By : Shri Kiran Kotta. (D.R.)

Date of Hearing : 17.08.2021.
Date of Pronouncement : 02.09.2021.

O R D E R

Per Shri S.S. Godara, J.M. :

This assessee's appeal for Asst. Year 2012-13 arises from the Commissioner of Income Tax (Appeals)-1, Hyderabad's order dt.11.03.2019 passed in case No.0080/2017-18/DCIT, Circle 1(2), Hyd/CIT(A)-

1/Hyd/2018-19 in proceedings under Section 271AA of Income Tax Act, 1961 ('the Act').

Heard both the parties. Case file perused.

2. The assessee's sole substantive grievance raised in the instant appeal challenging the correctness of both the lower appellate action imposing 271AA penalty of Rs.28,88,150 on account of its alleged failure in non-reporting of the trade receivables as an international transaction u/s. 92D of the Act. The Assessing Officer as well as CIT(A) hold that the foregoing issue of trade receivable had also lead to an adjustment amounting to Rs.1,95,25,119 in section 92CA proceedings as well.

3. We have given our thoughtful consideration to rival pleadings against and in support of the impugned penalty and find no reason to sustain the same. We are admittedly in Assessment Year 2012-13. Learned departmental representative fails to dispute that the legislature had inserted Explanation to section 92B of the Act vide Finance Act, 2012 with retrospective effect from 1.4.2002. Clause (i)

to (c) in the said Explanation to section 92B of the Act introduced such deferred payment or receivable to form an international transaction for the first time with retrospective effect in other words. This clinching retrospective operation only forms sufficient cause of the assessee's failure in not having recorded corresponding transaction in tune with section 92D of the Act. Learned lower authorities have treated as a fit instance to invoke the impugned penal provision. We therefore hold that the relevant facts and circumstances hereinabove make it clear in very unambiguous terms that the assessee's alleged failure does not attract the impugned penal provision u/s. 271AA of the Act since involving the foregoing "sufficient cause." We therefore direct the Assessing Officer to delete the impugned penalty. Ordered accordingly.

4. This assessee's appeal is allowed.

Order pronounced in the open court on 2nd Sept., 2021.

Sd/-

Sd/-

(L.P. SAHU)

(S.S. GODARA)

Accountant Member

Judicial Member

Hyderabad, Dt.02.09.2021.

* Reddy gp

Copy to :

1.	M/s. C3i Support Services Pvt. Ltd., B-4, Floor 2, Vanenburg IT Park, Plot No.17,Software Units Layout, Madhapur, Hyderabad-500 091
2.	DCIT, Circle 1(2), Hyderabad.
3.	Pr. C I T-1, Hyderabad.
4.	CIT(Appeals)-1, Hyderabad.
5.	DR, ITAT, Hyderabad.
6.	Guard File.

By Order

Sr. Pvt. Secretary, ITAT, Hyderabad.