

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AHMEDABAD SMC BENCH, AHMEDABAD**

[Coram : Pramod Kumar, Accountant Member]

**ITA Nos.2641, 2642 & 2643/Ahd/2014
A.Ys. 2008-09, 2009-10 & 2010-11**

**Dy. Commissioner of Income Tax (TDS),
Baroda.**

.....**Appellant**

Vs.

Gujarat Flurochemicals Limited,
*2nd Floor, ABC Tower, Old Padra Road,
Baroda.*
[PAN : AAACG 6725 H]

.....**Respondent**

Appearances by :

**Prasoon Kabra, for the appellant
Parin Shah, for the respondent**

Date of concluding the hearing : 05.07.2017
Date of Pronouncing the order : 28.08.2017

O R D E R

1. These three appeals pertain to the same assessee, involve a common issue and were heard together. As a matter of convenience, therefore, all the three appeals are being disposed of by way of this consolidated order.

2. The common grievances, baring the quantum of penalties, in all the three appeals are as follows :-

- “1. The learned CIT(A) has erred on facts and in law in deleting the penalty u/s.271C of the I.T. Act of Rs.36,29,467/- (in A.Y. 2008-09) (Rs.42,60,598/- in A.Y. 2009-10 & Rs.43,83,405/- in A.Y. 2010-11) levied by the Addl. CIT, Baroda, holding that the quantum addition has been deleted by the Hon'ble ITAT.
2. The Id.CIT(A) has further erred on facts and in law in ignoring that the Hon'ble Gujarat High Court has admitted the department's Appeal against the decision of ITAT for deleting the quantum.

3. *On the facts and in the circumstances of the case, the learned CIT(A) ought to have upheld the order of the Assessing Officer.*
4. *The appellant craves leave to amend or alter any ground or add a new ground, which may be necessary.*
5. *It is, therefore, prayed that the order of the learned CIT(A) may be cancelled and that of the Assessing Officer may kindly be restored."*

3. As evident from the above grounds of appeal, there is no dispute that the related tax deduction at source demand under section 201 of the Income Tax Act, 1961 stands deleted as on now. The decision of the Tribunal binds us as well, and merely because Honble High Court has admitted the appeal against the said order does not dilute its binding character.

4. As the related TDS demands under section 201 stand deleted, there is absolutely no legal basis for the impugned penalties. The learned CIT(A) was thus quite justified in deleting the impugned penalties as well. Learned Departmental Representative does not dispute this position. I, therefore, uphold the impugned orders of the learned CIT(A), and decline to interfere in the matter.

5. In the result, the appeals are dismissed. Pronounced in the open court today on the 28th day of August, 2017.

Sd/-

Pramod Kumar
(Accountant Member)

Dated: Ahmedabad, the 28th day of August, 2017.

PBN/*

<i>Copies to:</i>	(1) <i>The appellant</i>	(2) <i>The respondent</i>
	(3) <i>CIT</i>	(4) <i>CIT(A)</i>
	(5) <i>DR</i>	(6) <i>Guard File</i>

By order

*Assistant Registrar
Income Tax Appellant Tribunal
Ahmedabad Benches, Ahmedabad*