

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “C” BENCH, AHMEDABAD  
[Coram: Pramod Kumar AM and S S Godara JM]**

ITA No. 881/Ahd/2015  
Assessment Year : 2005-06

**Lipi Specific Family Trust** .....Appellant  
*Prop. Nandishwari Packaging,  
Plot No. 2, Phase-I, GIDC, Vatva  
Ahmedabad  
[PAN : AAATL 1302 N]*

**Vs.**

**Asstt. Commissioner of Income-tax** .....Respondent  
*Circle-6  
Ahmedabad*

**Appearances by:**

**Himanshu Shah** for the appellant  
**Prasoon Kabra** for the respondent

Date of concluding the hearing : 24.11.2017  
Date of pronouncing the order : 24.11.2017

**O R D E R**

**Per Pramod Kumar, AM:**

1. The short issue that we are required to adjudicate in this appeal is whether or not, on the facts and in the circumstances of the case, learned CIT(A) was justified in upholding the impugned penalty of Rs.12,67,460/- imposed on the assessee under section 271(1)(c) of the Income Tax Act, 1961. The assessment year involved is 2005-06 and the impugned CIT(A)'s order was passed on 27.02.2015.

2. Briefly stated, the relevant material facts are like this. For the year under consideration, the assessment u/s 143(3) r.w.s. 147 of the Act was completed vide order dated 23.12.2010, at an assessed income of Rs.1,51,39,855/-, making disallowance of Rs.37,65,479/- under Section 80IB of the Act. On further appeal, the Id. CIT(A) has upheld the action of the Assessing Officer vide his order dated 04.01.2012 and confirmed the above said disallowance made by the Assessing Officer.

4. Subsequent to the Id. CIT(A)'s aforesaid order confirming the disallowance made by the Assessing Officer, penalty u/s 271(1)(c) of the Act was completed vide order dated 22.03.2013, imposing a penalty of Rs.12,67,460/- being the 100% of the tax sought to be evaded. On further appeal, the impugned penalty order was upheld

by the CIT(A) vide impugned order dated 27.02.2015. The assessee appellant, being aggrieved, is in appeal before the Tribunal.

5. At the time of hearing before us, it was pointed out by the Id. Counsel that, in the quantum appeal, the Tribunal has deleted the quantum addition vide order dated 15.02.2017 in ITA No.323/Ahd/2012 - copy of the order is placed on record. When the Tribunal has already deleted the quantum addition in question, the penalty made in respect of such addition cannot survive. We, therefore, delete the impugned penalty of Rs.12,67,460/- and allow the appeal of the assessee.

6. In the result, appeal is allowed. Pronounced in the open court today on the 24<sup>th</sup> November, 2017.

Sd/-

**S S Godara**  
(Judicial Member)

**Ahmedabad, the 24<sup>th</sup> day of November, 2017**

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Copies to: (1) The appellant  
(2) The respondent  
(3) Commissioner  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

Sd/-

**Pramod Kumar**  
(Accountant Member)

By order

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Assistant Registrar  
Income Tax Appellate Tribunal  
Ahmedabad benches, Ahmedabad