

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

**[Coram: Pramod Kumar AM]**

I.T.A. No.2674/Ahd/2015  
Assessment Year: 2011-12

**Gopal Glass Works Ltd.,**  
182, Gagan Vihar,  
Ahmedabad – 380 001.  
[PAN : AAACG 5599 H]

.....**Appellant**

**Vs.**

**Commissioner of Income tax (Appeals)-2,  
Ahmedabad.**

.....**Respondent**

**Appearances by:**

**Pamil H. Shah** for the appellant  
**Santosh Karnani** for the respondent

Date of concluding the hearing: 21.11.2017  
Date of pronouncing the order: 29.11.2017

**O R D E R**

1. By way of this appeal, the assessee has challenged correctness of the order dated 23<sup>rd</sup> July, 2015 passed by the Id. CIT(A) upholding penalty of Rs.36,474/- imposed under section 271(1)(c) of the Income Tax Act, 1961 (the Act hereinafter) for the assessment year 2011-12.

2. The relevant material facts are like this. The assessee was declined deduction u/s.80IA, amounting to Rs.49,18,577/- but, on appeal, the action of the Assessing Officer in so declining the deduction under section 80IA, was reversed, in principle, by the Id. CIT(A). On the qualification of deduction, however, the learned CIT(A) held that correct deduction works out to Rs.48,00,536/-. The difference was on account of non allocation of administrative expenses, to the eligible unit. It was in this backdrop that the learned CIT(A) initiated, and imposed the impugned penalty of Rs.36,474/-. Aggrieved, the assessee is in appeal before me.

3. I have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of applicable legal position.

4. I have noted that the small difference in quantification of claim of deduction under section 80IA is said to be on account of error in not allocating the head office expenses. Looking to the quantum of mistaken allocation adjustment vis-a-vis overall claim of deduction under section 80IA, the explanation of the assessee does seem reasonable to me and it, therefore, merits acceptance. I have also noticed that in similar situation, a division bench of this Tribunal, in the case of ITO vs. Sharda Construction & Investment Company [(2014) 50 taxmann.com 331 (Pune)], had deleted the related penalty. In view of these discussions, and respectfully following the above judicial precedent, I delete the impugned penalty of Rs.36,474/-. The assessee gets the relief accordingly.

5. In the result, the appeal is allowed. Pronounced in the open court today on the 29<sup>th</sup> day of November, 2017.

Sd/-

**Pramod Kumar**

(Accountant Member)

**Dated: Ahmedabad, the 29<sup>th</sup> day of November, 2017.**

**PBN/\***

Copies to:                   (1)    *The appellant*                   (2)    *The respondent*  
                                     (3)    *CIT*                                       (4)    *CIT(A)*  
                                     (5)    *DR*                                       (6)    *Guard File*

*By order*

*Assistant Registrar*  
*Income Tax Appellate Tribunal*  
*Ahmedabad benches, Ahmedabad*