

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'D' NEW DELHI**

**BEFORE SHRI G.D. AGRAWAL, HON'BLE PRESIDENT  
&  
SHRI K.N. CHARY, JUDICIAL MEMBER**

**ITA No.-5103/Del/2014  
(Assessment Year: 2009-10)**

DCIT Circle-17(1) New Delhi	vs	Vipul Ltd. (FKA Vipul Infrastructure Developers Pvt. Ltd.) Vipul Tech Square, Sector-43, Golf Course Road Gurgaon AAACA5396C
<b>Assessee by</b>		<b>Shri Rajesh Arora, CA</b>
<b>Revenue by</b>		<b>Smt. Ritu Sharma, Sr. DR</b>

<b>Date of Hearing</b>	<b>03.01.2018</b>
<b>Date of Pronouncement</b>	<b>04.01.2018</b>

**ORDER**

**PER K. NARSIMHA CHARY, J.M.**

This is an appeal by the revenue challenging the order dated 07.07.2014 in appeal no. 354/13-14 passed by the Ld. Commissioner of Income Tax (Appeals)-XXI, New Delhi (for short called "Ld. CIT(A)"), revenue preferred this appeal on the following grounds :-

*"On the facts and in the circumstances of the case, Ld. CIT(A) erred in deleting penalty amounting to Rs. 10,51,083/- made by the AO u/s 271(1)(c) of the I.T.Act, 1961."*

2. The levy of penalty involved in this matter was in respect of the addition made by the ld. AO by disallowing the expenses and invoking the provisions u/s 14A of the Act r. w. rule 8D of the Income Tax Appeal Rules, 1962. Ld. CIT(A) in appeal deleted the same holding that this is a case of a bona fide claim based on a reasonable interpretation of law, but not acceptable to the ld. AO, as such while following the decision reported in CIT v Reliance Petroproducts (P) Ltd. (2010) 322 ITR 158 (SC), he deleted the penalty. Today when the matter is called, Ld. AR produced the copy of order dated 14.7.2016 in ITA Nos. 2153 and 4397/Del/2013, the appeals preferred by the assessee against the quantum addition. He submitted that by a way of this order a coordinate Bench of this Tribunal deleted the quantum addition.

3. On a careful consideration of a matter, we find that as rightly pointed out by the ld. CIT(A), this is not a case of any concealment of income or furnishing of inaccurate particulars of income, but a claim preferred by the assessee was not found favour with ld. AO. The decision in Reliance Petroproducts (P) Ltd.(supra) is applicable to the facts of the case. Further the quantum is deleted by a co-ordinate bench of this Tribunal in appeal as such penalty does not survive. Viewing from any angle the penalty does not survive. Hence, we confirm the findings of the ld. CIT(A).

4. In the result appeal of the revenue is dismissed.

Order pronounced in the open court on 04 January, 2018.

Sd/-  
**(G.D. AGRAWAL)**  
**PRESIDENT**

Dated: 04.01.2018

\*BINITA\*

Copy forwarded to:

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

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Sd/-  
**(K. NARSIMHA CHARRY)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI

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