

**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH 'B', CHANDIGARH**

BEFORE SMT. DIVA SINGH, JUDICIAL MEMBER
AND DR. B.R.R. KUMAR, ACCOUNTANT MEMBER

ITA No. 263 & 264/Chd/2017

(Assessment Years: 2008-09 & 2011-12)

Ajay Kumar Sood Engineers
& Contractors
Sanjay Sadan, Chotta Shimla
Shimla

Vs.

TheDCIT
Central Circle-II
Chandigarh

PAN: AAKFA4648J

(Appellant)

(Respondent)

Assessee by	:	Shri. Sudhir Sehgal Shri. Dinesh Sood
Department by	:	Dr. Gulshan Raj
Date of hearing	:	24/05/2018
Date of Pronouncement	:	15/06/2018

ORDER

PER BENCH :

Both the above appeals have been filed by the Assessee against the order of the Ld. CIT(A)-3, Gurgaon dt. 22/11/2016.

Grounds of appeal in ITA No. 263/CHD/2017 for A.Y. 2008-09:

1. The Ld. CIT(A) has erred in law and facts of the case by upholding penalty Under section 271(1)(c) imposed by the Ld. A.O.
2. The Ld. CIT(A) has erred in law and facts of the case by upholding penalty orders which are barred by limitation.
3. The Ld. CIT(A) has erred in law and facts of the case by upholding penalty orders without giving effect to relief of Rs. 1,23,74,607/- given by the Ld. CIT(A) in quantum additions where addition was made on basis of clerical error in figure of turnover and was duly set aside in appeal.
4. The CIT(A) has erred in law and facts of the case by upholding penalty Under section 271(1)(c) for additions made under deeming provisions of Section 69C.
5. The Ld. CIT(A) has erred in law and facts of the case by passing ex-parte orders even when the quantum additions are subject matter of appeal before the Hon'ble ITAT.

Grounds of appeal in ITA No. 263/CHD/2017 for A.Y. 2011-12:

1. The Ld. CIT(A) has erred in law and facts of the case by upholding penalty Under section 271(1)(c) imposed by the Ld. A.O.

2. The Ld. CIT(A) has erred in law and facts of the case by upholding penalty orders which are time barred.

3. The Ld. CIT(A) has erred in law and facts of the case by upholding penalty Under section 271(1)(c) for additions made under deeming provisions of Section 69C.

4. The Ld. CIT(A) has erred in law and facts of the case by upholding penalty orders without giving effect to relief of Rs. 1,75,00,000/- given by the Ld. CIT(A) in quantum additions.

5. The Ld. CIT(A) has erred in law and facts of the case by passing ex-parte orders even when the quantum additions are subject matter of appeal before the Hon'ble ITAT, Chandigarh.

2. For the A.Y. 2008-09

2.1 The addition made of Rs. 1,23,74,607/- stands deleted in the quantum appeal filed by the assessee. Hence the penalty proceedings do not survive and becomes in fructuous.

3. For the A.Y. 2011-12

3.1 The addition made of Rs. 1,75,00,000/- stands deleted in the order passed by the Ld. CIT(A) which has been upheld by the ITAT. Hence the penalty proceedings do not survive and becomes in fructuous.

4. As a result, both the above appeals are allowed.

Order pronounced in the open Court.

Sd/-
(DIVA SINGH)
JUDICIAL MEMBER
Dated : 15/06/2018

AG

Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER

Copy to: 1.The Appellant, 2. The Respondent, 3. The CIT(A), 4. The CIT, 5. The DR