

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "D" NEW DELHI**

**BEFORE SHRI G.D. AGRAWAL, PRESIDENT  
&  
SHRI AMIT SHUKLA, JUDICIAL MEMBER**

I.T.A. No.2124/DEL/2016  
Assessment Year: 2005-06

Nelwa Sons Investment Ltd. (Earlier Known as Jindal Strips Ltd.) O.P. Jindal Marg, Haryana, India.	vs.	Deputy Commissioner of Income Tax, Circle-13(1), New Delhi.
TAN/PAN: AAACJ 2734R		
(Appellant)		(Respondent)

Appellant by:	Shri Rohit Jain, Adv. & Shri Deepesh Jain, CA		
Respondent by:	Shri Vijay Verma, CIT-DR		
Date of hearing:	14	06	2018
Date of pronouncement:	21	06	2018

**ORDER**

**PER AMIT SHUKLA, J.M.:**

The aforesaid appeal has been filed by the assessee against the impugned order dated 04.06.2015, passed by Id. CIT (Appeals)-XX, New Delhi for the Assessment Year 2005-06 in relation to penalty proceedings u/s.271(1)(c).

2. The assessee is aggrieved by levy of penalty in respect of disallowance of Rs.1811.73 lacs in respect of loan and advances written off during the relevant Assessment Year.

3. At the outset, ld. counsel for the assessee, Mr. Rohit Jain submitted that in the quantum proceedings this issue has been decided in favour of the assessee wherein the Tribunal has deleted the entire addition made on this count.

4. Learned DR too admitted that in the quantum proceedings, this matter stands decided in favour of the assessee.

5. From the perusal of the impugned order as well as the quantum order of the Tribunal in ITA No.1425/Del/2013 order dated 16.04.2018, we find that the Tribunal has deleted the addition of Rs.1811.73 lac after observing and holding as under:-

*“We have considered rival submissions. On Ground No.1, it is held that the assessee was an NBFC in AY under appeal and the registration as such is effective from the date of application dated 09.03.2004 because of the scheme of arrangement and demerger approved by the Hon’ble Punjab & Haryana High Court vide judgement dated 30.06.2003 whereby the assessee shall be deemed to be an investment company and shall be registered as non banking financial company as per RBI Act. The assessee has filed the balance sheet of the debtor company to show that they have accumulated loss from earlier years. The investment was made by the assessee way back in 1998 and not in the year under consideration. The principal amount could not be recovered and even the interest was also not recoverable.*

*The assessee company, therefore, written off the principal amount as well as interests as irrecoverable in its books of accounts as per section 36(l)(vii) of the Act. The assessee, therefore, satisfied the condition of section 36(1)(vii) of the Act. Ld.CIT(A) found as regards interest amount that it is allowable under above provision and issue is covered by the judgement of Hon'ble Supreme Court in the case of TRF Ltd. (supra). Since the assessee was an investment company and it was a principal business of the assessee to grant loan and advance which was also granted earlier, therefore, if the principal amount and interests is not recoverable from debtor company for last several years, the assessee correctly write off same in its books of account as irrecoverable. The claim of the assessee is supported by the balance sheet of the debtor company to show that they have accumulated losses. The decisions relied upon by Ld. Counsel for the assessee support the claim of bad debt on principal amount as well as on interests. The AO thus should not have rejected the claim of the assessee. The claim of the assessee thus allowable as bad debts as well as business loss. We accordingly, set aside the orders of the authorities below and delete the addition of Rs. 1811.73 lakhs sustained by the Ld.CIT(A). Ground No.2 of the appeal of the assessee is allowed”*

6. Once the addition itself has been deleted in the quantum proceedings, then levy of penalty u/s.271(1)(c) for the same addition cannot be sustained. Accordingly, penalty levied by the Assessing Officer stands deleted.

7. In the result, the appeal of the assessee is allowed.

**Order pronounced in the open Court on 21<sup>st</sup> June, 2018.**

Sd/-  
**[G.D. AGRAWAL]**  
**PRESIDENT**

Sd/-  
**[AMIT SHUKLA]**  
**JUDICIAL MEMBER**

DATED: 21<sup>st</sup> June, 2018