

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"A" BENCH, AHMEDABAD**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**  
**& SHRI MAHAVIR PRASAD, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 2521/Ahd/2014  
(निर्धारण वर्ष / Assessment Year : 2005-06)

<b>Assistant Commissioner of Income Tax</b> Circle-4, Baroda	<b>बनाम/</b> Vs.	<b>M/s. Welspun Projects Ltd. (Formerly known as MSK Projects India Ltd.)</b> 707/708, Sterling Centre, R.C.Dutt Road, Alkapuri, Baroda 390007
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AABCM4107C</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Mudit Nagpal, Sr.D.R.
प्रत्यर्थी की ओर से / Respondent by :	Shri Biren Shah, A.R.

सुनवाई की तारीख / Date of Hearing	10/12/2018
घोषणा की तारीख /Date of Pronouncement	19/12/2018

**आदेश/ORDER**

**PER PRADIP KUMAR KEDIA - AM:**

The captioned appeal has been filed at the instance of the Revenue against the order of the CIT(A)-III, Baroda ('CIT(A)' in short), dated 11.05.2014 arising in the penalty order dated 25.03.2013 passed by the Assessing Officer (AO) u/s. 271(1)(c) of the Income Tax Act, 1961; (the Act) concerning assessment year 2005-06.

2. The Revenue by way of its grounds of appeal has challenged the action of the CIT(A) in deleting penalty of Rs.1,34,75,700/- under s. 271(1)(c) of the Act.

3. When the matter was called for hearing, the learned AR for the assessee submitted that the quantum additions/disallowances giving rise to the imposition of penalty in appeal has been reversed by the coordinate bench of Tribunal in ITA No. 1864/Ahd/2013, order dated 08.10.2018 in the quantum proceedings.

4. In view of the fact that the quantum additions/disallowances itself does not survive and ceases to exist having regard to the appellate order of the ITAT in quantum proceedings, the very basis for imposition of penalty under s. 271(1)(c) does not survive any more. Therefore, the action of the AO towards imposing penalty is set aside and cancelled.

5. In the result, the appeal of the Revenue is dismissed.

**This Order pronounced in Open Court on 19/12/2018**

Sd/-  
(MAHAVIR PRASAD)  
JUDICIAL MEMBER  
Ahmedabad: Dated 19/12/2018

Sd/-  
(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER

*True Copy*

S. K. SINHA

**आदेश की प्रतिलिपि अग्रहित / Copy of Order Forwarded to:-**

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /  
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण, अहमदाबाद ।