

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, 'ए' चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL  
DIVISION BENCH, 'A', CHANDIGARH

श्री एन. के. सैनी, उपाध्यक्ष एवं श्री संजय गर्ग, न्यायिक सदस्य  
BEFORE SHRI N.K. SAINI, VICE PRESIDENT & SHRI SANJAY GARG,  
JUDICIAL MEMBER

आयकर अपील सं./ ITA No. 1260/CHD/2018

निर्धारण वर्ष / Assessment Year : 2006-07

The ITO , Ward-6(1), Ludhiana	Vs. बनाम	Bronze Logistics Pvt. Ltd., 863, Indl-A, Ludhiana
PAN No. AABCB9505H		
अपीलार्थी/Appellant		

निर्धारिती की ओर से/Assessee by : Shri Ashish Gupta, CIT DR  
राजस्व की ओर से/ Revenue by : Sh. Sudhir Sehgal, Advocate.

सुनवाई की तारीख/Date of Hearing : 06.03.2019  
उदघोषणा की तारीख/Date of Pronouncement : 08.03.2019

**आदेश/Order**

This is an appeal by the Department against the order dated 19.7.2018 of the Commissioner of Income Tax (Appeals)-2, Ludhiana

2. Following grounds have been raised in this appeal:

- i) *Whether on the facts and circumstances of the case the Ld. CIT(A), Ludhiana has erred in law and on the facts in deleting penalty imposed u/s 271(1)(c) of the Income-tax Act, 1961 of Rs. 9,20,10,830/-.*
- ii) *That the appellant craves lead to add or amend any ground of appeal before it is finally disposed off.*

3. During the course of hearing, the Ld. Counsel for the assessee at the very outset has stated that the additions on the basis of which the penalty u/s 271(1)(c) of the I.T. Act. 1961 was levied by the Assessing officer was

deleted by the ITAT and the relevant findings has been given by the Ld. CIT(A) in par 5.2 of the impugned order.

4. In his rival submissions the Ld. DR supported the orders of the Assessing officer.

5. After considering the submissions of both the parties and material on record, it is an admitted fact that the addition on the basis of which the penalty u/s 271(1)(c) of the Act was levied by the Assessing officer has been deleted by the ITAT.

6. On a similar issue, the Hon'ble Supreme Court in the case of K. C. Builders & Others Vs ACIT (2004) 265 ITR 562 has held as under:-

*“Where the additions made in the assessment order on the basis of which penalty for concealment is levied, are deleted, there remains no basis at all for levying penalty for concealment and, therefore, in such a case no penalty can survive and the penalty is liable to be cancelled. Ordinarily, penalty cannot stand if the assessment itself is set aside.”*

7. So respectfully following the ratio laid down by the Hon'ble Apex Court in the aforesaid referred to case, we do not find any infirmity in the order of the Ld. CIT(A). Accordingly, we do not see any merit in the appeal of the Department.

In the result, the appeal of the Department is dismissed.

(Order Pronounced in the Court on 08.03.2019)

Sd/-

संजय गर्ग  
(SANJAY GARG)

न्यायिक सदस्य/ Judicial Member

Dated : 08.03.2019

“आर.के.”

Sd/-

एन. के. सेनी  
(N.K. SAINI)

उपाध्यक्ष / Vice President

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar