

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
AHMEDABAD BENCH 'D', AHMEDABAD**

**[Coram: Justice P P Bhatt, President, and Pramod Kumar, Vice President]**

ITA No. 612/Ahd/2017  
Assessment year: 2006-07

**The Dy. Commissioner of Income-tax** .....**Appellant**  
*Circle-1(1)(2), Ahmedabad*

**Vs**

**D.B. Corporation Ltd** .....**Respondent**  
*280, Sarkhej Gandhinagar Highway,  
Nr. YMCA Club, Makarba,  
Ahmedabad – 380051  
[PAN : AACCM 5772 G]*

**Appearances by**

**Lalit P. Jain,** *for the appellant*  
**Dhinal Shah,** *for the respondent*

Date of concluding the hearing : 05.12.2018  
Date of pronouncement : 04.03.2019

**O R D E R**

**Per Pramod Kumar, Vice President:**

1. By way of this appeal, the Assessing Officer has challenged correctness of the order dated 29th December 2016 passed by the CIT(A)-1, Ahmedabad in the matter of assessment under section 143(3) of the Income-tax Act, 1961, for the assessment year 2006-07.

2. Grievance raised by the appellant is as follows:-

*“That the Id. CIT(A) erred in law and on facts in deleting the addition of Rs.1,99,60,265/- made u/s 32(1)(iia) of the I.T. Act on account of additional depreciation claimed. ”*

3. When this appeal was called out for hearing, our attention was invited to a co-ordinate bench decision dated 23.03.2017 in the assessee's own case (ITA Nos. 2373/Ahd/2011 and 1088/Ahd/2014; DB Corp Ltd vs. DCIT) whereby the co-ordinate bench has quashed the very revision order, passed under section 263 of the Income-tax Act, 1961 – as a result of which the impugned penalty and the related

assessment order was framed. It is pointed out that once the revision order stands quashed, for this short reason alone, all the related consequent proceedings also cease to hold good in law. When learned Departmental Representative was confronted with this development, he fairly agreed with the plea canvassed by the learned counsel.

4. The objection raised by the learned counsel is indeed well taken. As the related revision proceedings under section 263 stand quashed, the correctness of deletion of impugned penalty, on merits, is wholly academic. The impugned penalty does not have any legal basis as on now. The grievance of the Assessing Officer, for deletion of impugned penalty, is thus ill-conceived and unsustainable in law. We reject the same.

5. In the result, the appeal is dismissed. Pronounced in the open court today on the 4<sup>th</sup> day of March, 2019.

Sd/-

**Justice P P Bhatt**  
(President)

Sd/-

**Pramod Kumar**  
(Vice President)

**Ahmedabad, dated the 4<sup>th</sup> day of March, 2019**

*Copies to:*

(1)	<i>The appellant</i>	(2)	<i>The respondent</i>
(3)	<i>CIT</i>	(4)	<i>CIT(A)</i>
(5)	<i>DR</i>	(6)	<i>Guard File</i>

*By order etc*

*True Copy*

*Assistant Registrar  
Income Tax Appellate Tribunal  
Ahmedabad benches, Ahmedabad*