

IN THE INCOME TAX APPELLATE TRIBUNAL,

**BEFORE SHRI B.R BASKARAN, ACCOUNTANT MEMBER
AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

SN	ITA No.	Asst. Year
1	1793 /Bang/2017	2007-08
2	1794/Bang/2017	2007-08
3	1795/Bang/2017	2008-09
4	1796/Bang/2017	2008-09
5	1797/Bang/2017	2009-10
6	1798/Bang/2017	2010-11
7	1799/Bang/2017	2009-10
8	1800/Bang/2017	2010-11

The Dy. Commissioner of Income-tax, Central Circle-1(3), Bengaluru.	Vs.	M/s Associated Mining Company Erstwhile partner Smt. KM Parvathamma & Sri KM Vishwanath 164/3, Laxmi Venkateshwara Nilaya 16 th Cross, Vyalikaval, Bengaluru. PAN – AAHFA 3896 P
APPELLANT		RESPONDENT

Appellant by	:	Shri V Srinivasan, Advocate
Respondent by	:	Shri C.H Sundar Rao, CIT (DR)

Date of hearing	:	08.05.2019
Date of Pronouncement	:	14.05.2019

ORDER**PER BENCH**

All these appeals filed by the revenue are directed against the common orders dated 30-06-2017 passed by Ld CIT(A)-11, Bangalore for assessment years 2007-08 to 2010-11. It is pertinent to note that the Ld CIT(A) was constrained to pass two separate orders for each of the assessment years, since two separate appeals have been filed by the assessee before him for each of the years due to change in constitution of the firm. In all these appeals, the revenue is challenging the decision of Ld CIT(A) in cancelling the penalty levied u/s 271(1)(c) of the Act.

2. At the outset, the Ld Counsel appearing for the assessee submitted that the assessments framed for all the years under consideration have since been quashed by the Tribunal, vide its order dated 18-10-2016 passed in ITA No.1355 to 1360/B/2014. Accordingly he submitted that the present penalty orders for the years under consideration will not survive, since the concerned assessment orders have been quashed.

3. The Ld D.R did not object to the factual aspects presented by Ld A.R.

4. Since the assessment orders, on the basis of which the impugned penalty orders have been passed, have been quashed by the Tribunal, vide its order referred above, the impugned penalty orders shall not have independent legs to stand on its own. Accordingly we find merits in the submissions of the Ld A.R of the assessee. We notice that the Ld CIT(A) has cancelled the penalty on the reasons cited above. Accordingly we do not find any infirmity in the orders passed by Ld CIT(A).

5. In the result, all the appeals of the revenue are dismissed.

Order pronounced in the open court on **14th May, 2019.**

Sd/-
(B.R BASKARAN)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Bangalore
Dated : 14/5/2019
Vms

Copy to :1. The Assessee
2. The Revenue
3.The CIT concerned.
4.The CIT(A) concerned
5.DR
6.GF

By order

Asst. Registrar, ITAT, Bangalore.

1. Date of Dictation
2. Date on which the typed draft is placed before the dictating Member
3. Date on which the approved draft comes to Sr.P.S
4. Date on which the fair order is placed before the dictating Member
5. Date on which the fair order comes back to the Sr. P.S.
6. Date of uploading the order on website.....
7. If not uploaded, furnish the reason for doing so
8. Date on which the file goes to the Bench Clerk
9. Date on which order goes for Xerox & endorsement.....
10. Date on which the file goes to the Head Clerk
11. The date on which the file goes to the Assistant Registrar for signature on the order
12. The date on which the file goes to dispatch section for dispatch of the Tribunal Order
13. Date of Despatch of Order.