

IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
And
SHRI MANISH BORAD, ACCOUNTANT MEMBER

ITA No. 178/Ind/2019
A.Y. 2008-09

Ramesh Singh, Post Sirali
Dist. Harda1
PAN - CUEPS 7588 H

:: Appellant

Vs

ITO-2, Harda

:: Respondent

Assessee by	Shri Ashish Goyal, Adv. and Shri N.D. Patwa, Adv.
Assessees by	Shri R.S. Ambedker, Sr. DR
Date of hearing	03.6.2019
Date of pronouncement	03.6.2019

O R D E R

Per Shri Kul Bharat, JM

This appeal is filed by the assessee against the order of ld. CIT(A)-1, Bhopal, dated 02.11.2018 challenging the confirmation of penalty at Rs.2,10,000/- imposed by the Assessing Officer u/s 271(1)(c) of the I.T. Act.

2. At the outset of the hearing, ld. counsel for the assessee contended that quantum addition on the basis of which penalty was

levied by the Assessing Officer has been deleted by the ITAT, Indore, therefore, penalty would not survive in the present appeal. Ld. Sr.DR conceded the fact that the quantum addition has been deleted by the ITAT, Indore.

3. We have heard both the parties and perused the orders of lower authorities. We find that the quantum appeal filed by the assessee bearing ITA No.290/Ind/2015 (A.Y. 2008-09) had been allowed by Indore Bench vide order dated 18.5.2016. Copy of the order of the Tribunal (supra) has been filed by the learned Counsel for the assessee. Thus, when the addition which formed the basis for levy of penalty u/s 271(1)(c) of the I.T. Act has been deleted, the penalty levied on the same does not survive and therefore, we delete the penalty too.

4. In result, appeal filed by the assessee is allowed.

Order was pronounced in the open court on 03.6.2019.

**Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER**

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

Dated : 03.6.2019

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Appellant/Respondent/CIT(A)/Pr.CIT/DR, Indore