

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "D" NEW DELHI**

**BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER  
AND**

**SH. KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.1390/Del/2016**

**Assessment Year : 2003-04**

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| Income Tax Officer<br>Ward- 1 (4), New Delhi | Vs. | M/s. Aggregate Finance &<br>Investment Pvt. Ltd.,<br>1117/12, 3 <sup>rd</sup> Floor,<br>Naiwala, Karol Bagh,<br>New Delhi-110005 |
|  |     | <b>PAN No.AAACA6428R</b>   |
| <b>(Appellant)</b>                           |     | <b>(Respondent)</b>  |

Appellant by : Sh. Naina Soin Kapil, Sr. DR.  
Respondent by : Sh. Kapil Goel, Advocate

Date of hearing : 25-07-2019  
Date of pronouncement : 29-07-2019

**ORDER**

**PER R. K. PANDA, AM :**

This appeal filed by the revenue is directed against the order dated 22.01.2016 of the CIT(A)-I, New Delhi relating to A.Y.2003-04.

2. The revenue in its only effective ground of appeal has challenged the order of the CIT(A) in deleting the penalty of Rs.62,50,000/- levied by the Assessing Officer u/s. 271 (1) (c) of the IT Act.

3. Facts of the case, in brief, are that the Assessing Officer in the instant case completed the assessment u/s.144/147 determining the total income at Rs.1,70,04,230/-as against the returned income of 'nil'. Subsequently the Assessing Officer initiated penalty proceedings u/s. 271 (1) (c) of the Act. The Id. CIT(A) deleted the penalty on the ground that the addition made by the Assessing Officer in the assessment order has been deleted by the CIT(A) and, therefore, the penalty does not survive.

4. Aggrieved with such order of the CIT(A), the revenue is in appeal before the Tribunal.

5. The Ld. Counsel for the assessee, at the outset, filed a copy of the order of the Tribunal and submitted that the appeal filed by the revenue against the addition deleted by the CIT(A) has been dismissed and the order of the CIT(A) has been upheld. Since the quantum addition has been deleted, therefore, the penalty has no legs to stand and therefore the order of the CIT(A) deleting the penalty has to be upheld and the ground raised by the revenue should be dismissed.

6. The Ld. DR on the other hand fairly conceded that the Tribunal has decided the issue in favour of the assessee and the appeal filed by the revenue against the deletion of addition by the CIT(A) has been dismissed.

7. We have heard the rival arguments made by both the sides and perused the material available on record. It is an admitted fact that the quantum addition made by the Assessing Officer has been deleted by the CIT(A) and on further appeal, the Tribunal has dismissed the appeal filed by the Revenue. Therefore, when the quantum addition has been deleted the penalty does not survive. We, therefore, uphold the order of the CIT(A) deleting the penalty so levied by the Assessing Officer. The ground raised by the revenue is accordingly dismissed.

8. In the result, the appeal filed by the revenue is dismissed.

Order pronounced in the open court on 29.07.2019.

Sd/-  
(KULDIP SINGH)  
JUDICIAL MEMBER

Dated: 29-07-2019

*\*Neha\**

*Copy of order to: -*

- 1) The Appellant
- 2) The Respondent
- 3) The CIT
- 4) The CIT(A)  
The DR, I.T.A.T., New Delhi

Sd/-  
(R. K. PANDA)  
ACCOUNTANT MEMBER

Assistant Registrar  
ITAT, New Delhi

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| Date of dictation  | 26.07.2019 |
| Date on which the typed draft is placed before the dictating Member                  |            |
| Date on which the typed draft is placed before the Other member                      |            |
| Date on which the approved draft comes to the Sr.PS/PS                               |            |
| Date on which the fair order is placed before the Dictating Member for Pronouncement |            |
| Date on which the fair order comes back to the Sr. PS/ PS                            |            |
| Date on which the final order is uploaded on the website of ITAT                     |            |
| Date on which the file goes to the Bench Clerk                                       |            |
| Date on which file goes to the Head Clerk.   |            |
| The date on which file goes to the Assistant Registrar for signature on the order    |            |
| Date of dispatch of the Order  |            |