

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "I.2", NEW DELHI
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

	I.T.A. No. 2617/DEL/2019		
	A.Y. : 2008-09		
IMPERIA STRUCTURES LTD. (PHOENIX DATATECH SERVICES (P) LTD. NOW AMALGAMATED WITH IMPERIA STRUCTURES LTD.) A-25, MOHAN COOPERATIVE, INDUSTRIAL ESTATE, MATHURA ROAD, NEW DELHI - 110 044 (PAN: AACCC12321R)	VS.	ACIT, CENTRAL CIRCLE-15, NEW DELHI - 110 002	
(APPELLANT)		(RESPONDENT)	

Assessee By : Sh. Sanjeev Aggarwal, Adv.
Department By : Sh. Surender Pal, Sr. DR.

ORDER

PER H.S. SIDHU: JM

This appeal by the Assessee is directed against the impugned order dated 30.7.2018 passed by the Ld. CIT(A)-XXVI, New Delhi on the following grounds:-

1. The order passed by the Ld. CIT (A) is bad in law, wrong on facts and against the principles of natural justice.
2. That on the facts and in the circumstances of the case and in law the Ld. CIT(A) has erred in confirming imposition of penalty u/s 271(1)(c) of Income Tax Act, 1961 of Rs. 8,34,300/- on addition of Rs. 27,00,000/- made in the assessment order, without considering the facts that the appellant company has not concealed the income or furnished inaccurate particulars of Income.

3. That the Ld. CIT(A) has erred in confirming imposition of penalty of Rs. 834300/- u/s 271(1)(c) of the Income Tax Act, 1961 whereas the entire additions of Rs. 27,00,000/- has already been deleted by the Hon'ble ITAT "G" Bench, New Delhi vide order dt. 28/12/2018 in ITA No. 3550/Del/2017 in the quantum appeal.
4. That the Ld. CIT(A) while confirming the penalty of Rs. 8,34,300/- u/s 271(1)(c) of Income Tax Act, 1961 imposed by the Assessing Officer, has grossly ignored the fact that an addition of Rs. 27 Lacs was made by the Assessing Officer towards alleged booking received on the basis of findings in the assessment order of the appellant company for AY 2009-10 and the additions made in the order for AY 2009-10 have already been deleted by the Hon'ble ITAT in appeal No. 2463/Del/2013 vide order dated 13.06.2016 and the Department's appeal against the ITAT order has also been dismissed by the Hon'ble Delhi High Court vide order dated 06.01.2017 in ITA No. 804/2016.

The appellant craves leave to add, alter, amend, delete, forego or modify any of the grounds of appeal before or at the time of hearing.

2. Facts narrated by the revenue authorities are not disputed by both the parties, hence, the same are not repeated here for the sake of convenience.
3. At the time of hearing, Ld. Counsel of the Assessee, has stated that ITAT vide its order dated 28.12.2018 in quantum Appeal No. 3550/Del/2017 (AY 2008-09) has deleted the entire addition on which the penalty in dispute has been imposed.
4. On the contrary, Ld. DR has not raised any serious objection on the request of the Ld. Counsel for the assessee.
5. We have carefully considered the submissions and perused the records. We find that in assessee's own case the ITAT vide its order dated 28.12.2018 in quantum appeal No. 3550/Del/2017 (AY 2008-09) has deleted the entire additions on which the penalty in dispute has been imposed,

hence, the penalty in dispute will not survive. Accordingly, we delete the penalty in dispute in this appeal.

6. In the result, the Appeal filed by the Assessee stands allowed.

Order pronounced in the Open Court on 13/08/2019.

Sd/-

Sd/-

[PRASHANT MAHARISHI]
ACCOUNTANT MEMBER

[H.S. SIDHU]
JUDICIAL MEMBER

Date 13/08/2019

"SRB"

Copy forwarded to: -

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

Assistant Registrar,
ITAT, Delhi Benches