

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“A” BENCH, AHMEDABAD**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**  
**& SHRI MAHAVIR PRASAD, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 519/Ahd/2018

(निर्धारण वर्ष / Assessment Year : 2010-11)

<b>M/s. Lavender Buildcon Pvt. Ltd.</b> 2 <sup>nd</sup> Floor, Kaycrest, Opp. Gujarat Gas Co. Ltd., Nr. Parimal Crossing, C.G.Road, Ahmedabad	<b>बनाम/</b> Vs.	DCIT Circle 2(1)(2), Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AABCL5863E		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri P. B. Parmar, A.R.
प्रत्यर्थी की ओर से / Respondent by :	Shri S. K. Dev, Sr.D.R.

सुनवाई की तारीख / Date of Hearing	23/08/2019
घोषणा की तारीख /Date of Pronouncement	03/09/2019

**आदेश/ORDER**

**PER PRADIP KUMAR KEDIA - AM:**

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Appeals)-2, Ahmedabad ('CIT(A)' in short), dated 22.12.2017 arising in the penalty order dated 15.03.2016 passed by the Assessing Officer (AO) u/s. 271(1)(c) of the Income Tax Act, 1961; (the Act) concerning assessment year 2010-11.

2. The assessee by way of its grounds of appeal has challenged the action of the CIT(A) in confirming the penalty under s. 271(1)(c) of the Act.

3. When the matter was called for hearing, the learned AR for the assessee submitted that the quantum additions/disallowances giving rise to the imposition of penalty in appeal has been reversed by the co-ordinate bench of Tribunal in ITA No. 846/Ahd/2015, order dated 24.06.2019 in the quantum proceedings.

4. In view of the fact that the quantum additions/disallowances itself does not survive and ceases to exist having regard to the appellate order of the ITAT in quantum proceedings, the very basis for imposition of penalty under s. 271(1)(c) does not survive any more. Therefore, the action of the AO towards imposing penalty is set aside and cancelled.

5. In the result, the appeal of the assessee is allowed.

**This Order pronounced in Open Court on 03/09/2019**

Sd/-  
(MAHAVIR PRASAD)  
JUDICIAL MEMBER

Ahmedabad: Dated 03/09/2019

Sd/-  
(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /  
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण, अहमदाबाद ।