

THE INCOME TAX APPELLATE TRIBUNAL
"E" Bench, Mumbai
Before Shri Shamim Yahya (AM) & Shri Ravish Sood (JM)

I.T.A. No. 6545/Mum/2017 (Assessment Year 2006-07)
I.T.A. No. 6546/Mum/2017 (Assessment Year 2011-12)

M/s. Echjay Industries Pvt.Ltd. 83, Bajaj Bhavan Nariman Point Mumbai-400 021. PAN : AAACE1157B (Appellant)	Vs.	DCIT Circle 8(2) Aayakar Bhavan M.K. Road Mumbai-400 020. (Respondent)
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Assessee by	Shri N.R. Rao
Department by	Shri Rajeev Gubgotra
Date of Hearing	22.8.2019
Date of Pronouncement	27.8.2019

ORDER

Per Shamim Yahya (AM) :-

These are appeals by the assessee directed against order of learned CIT(A) for the respective assessment years. The issue raised is the levy of penalty under section 271(1)(c) as under :-

A.Y. 2006-07 Rs. 77,84,390/-
A.Y. 2011-12 Rs. 76,83,100/-

2. At the outset learned counsel of the assessee submitted that the quantum appeals relating to the issues on which penalty has been levied have already been decided in favour of the assessee vide order dated 17.7.2019 in ITA No. 5245/Mum/2017 for A.Y. 2006-07 and ITA No. 3801/Mum/2017 for A.Y. 2011-12. The learned counsel submitted that for assessment year 2006-07 the reopening has been quashed by the ITAT. So the additions do not survive. For assessment year 2011-12 the addition by reference to which the penalty has been levied has been deleted by the ITAT. Hence learned counsel prayed that the penalty levied does not survive.

3. Per contra learned departmental representative did not oppose the proposition submitted by the learned counsel of the assessee.

4. Upon careful consideration we find ourselves in agreement with the submission of learned counsel of the assessee. Since the additions with reference to which the penalty under section 271(1)(c) has been levied have already been deleted by the ITAT these penalties do not survive. Accordingly we set aside the orders of authorities below and delete the penalty.

5. In the result the appeals by the assessee stand allowed.

Order has been pronounced in the Court on 27.8.2019.

Sd/-
(RAVISH SOOD)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 27/8/2019

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai

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