

**In the Income Tax Appellate Tribunal,
Delhi Bench 'E', New Delhi**

**Before : Shri Bhavnesh Saini, Judicial Member And
Shri Dr. B.R.R. Kumar, Accountant Member**

**ITA No. 6541/Del/2016
Assessment Year: 2008-09**

OCL India Ltd., 17 th Floor, Narain Manzil, 26, Barakhamba Road, New Delhi. PAN- AAAC01354J (Appellant)	vs.	DCIT, Circle 19(1), New Delhi. (Respondent)
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Appellant by	Sh. R.M. Mehta, Advocate
Respondent by	Ms. Rinku Singh, Sr. DR
Date of Hearing	14.08.2019
Date of Pronouncement	16.09.2019

ORDER

Per Dr. B.R.R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of the Id. CIT(A)-36, New Delhi dated 24.10.2016.

2. Before us, the assessee sought to raise and has filed petition for admission of additional grounds of appeal which are as under:

"The A.O. having issued the Notice u/s. 274 read with Section 271(1)(c) of the Income Tax Act 1961, in a mechanical manner, without application of mind, the penalty order passed consequent thereto is not sustainable in the eyes of law and hence liable to be quashed."

3. By the power vested to this Tribunal as held by the Hon'ble Supreme Court in the case NTPC Vs CIT 229 ITR 383 regarding the jurisdiction to examine a question of law which arises from the facts as found by the authorities below and having a bearing on the tax liability of the assessee, the additional ground is hereby allowed.

4. From the record, we find that the Assessing Officer has satisfied that the assessee has furnished inaccurate particulars of his income and initiated penalty proceedings u/s 271(1)(c) of the Act. Further, in the penalty order, the Assessing Officer has mentioned that the assessee has furnished inaccurate particulars of his income which is levying to tax.

5. Since, the grounds have been raised by the assessee for the first time before the Tribunal, the revenue hasn't got the opportunity to adjudicate on this issue. Hence, the fitness of things, we deem it proper to remand the matter back to the file of the Id. CIT (A) with directions to examine the issue on obtaining the penalty notice in original, keeping in view, the judgments of Hon'ble High Court of Karnataka in the case of Manjunatha Cotton & Ginning Factory, Sahara India Commercial Corporation Ltd. in WTA No. 12/Del/2011 dated 16.11.2017 and Sundram Finance Ltd. 403 ITR 407 and CIT Vs Smt. Kaushalya 216 ITR 660 and adjudicate the matter as deemed fit as per the provisions of the Income Tax Act.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

(Order Pronounced in the Open Court on 16/09/2019).

Sd/-

(Bhavnesb Saini)
Judicial member

Sd/-

(Dr. B.R.R. Kumar)
Accountant Member

Dated:

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Copy of order forwarded to:

(1) *The appellant*

(3) *Commissioner*

(5) *Departmental Representative*

(2) *The respondent*

(4) *CIT(A)*

(6) *Guard File*

By order

Assistant Registrar
Income Tax Appellate Tribunal
Delhi Benches, New Delhi