

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "E": DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER

ITA.No.562/Del./2017
Assessment Year 2008-2009

M/s. Naraingarh Sugar Mills Ltd., Noida. U.P. PAN AAACN0454G C/o. Harry Rikhy (Advocate),R/o.H.No.1573, Sector 18D, Chandigarh.	vs.,	The DCIT, Circle-17(2), New Delhi.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Shri Atiq Ahmad, Sr. D.R.

Date of Hearing :	17.09.2019
Date of Pronouncement :	18.09.2019

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Assessee has been directed against the order of Ld. CIT(A)-39, New Delhi, Dated 28.11.2016, for the A.Y. 2008-2009, challenging the levy of penalty under section 271(1)(c) of the I.T. Act, 1961.

2. Briefly the facts of the case are that assessment in this case was completed on 18.06.2010 under section 143(3) at total income of Rs.NIL after adjusting brought forward losses of earlier years of Rs.4.75 crores as against the returned income NIL after adjusting brought forward losses of earlier years of Rs.4.59 crores. An addition was made of Rs.16,05,306/- on account of disallowance of depreciation of capitalized expenditure. During the year assessee company has claimed allowability of depreciation on addition made to the fixed assets being 50% of the interest on loan transfer to fixed assets in F.Y. 2003-2004. The assessee's claim was examined and it was noticed that assessee has not made any addition to the fixed assets or no new investments has been made during the year under consideration. The expenses incurred in earlier year on account of interest were capitalized and treated as assets, on which, depreciation is claimed. No explanation was given to justify the allowability of the depreciation on interest on the loan transferred to fixed asset in spite of questionnaire raised. Therefore, considering the same as deferred

expenditure relating to the earlier assessment years, assessee's claim of depreciation on the same were disallowed and added to the income of the assessee. The penalty proceedings were initiated under section 271(1)(c) of the I.T. Act, 1961. However, there was no response from the side of the assessee. The A.O. noted that Ld. CIT(A) also confirmed the addition on merits. The A.O. in the absence of any explanation from the side of the assessee, levied the penalty of the aforesaid addition which is confirmed by the Ld. CIT(A).

3. The assessee has been notified the date of hearing. However, none appeared on behalf of the assessee. The Ld. D.R. contended that appeal of assessee on quantum have been dismissed vide Order Dated 21.11.2014, copy of which is available on record.

4. After considering the submissions of the Ld. D.R. and perusal of the Orders of the authorities below in the light of Order of the Tribunal dismissing the appeal of assessee on quantum and in the absence of any explanation

from the side of the assessee, it is clear that assessee made a wrong claim of depreciation on the impugned amount. Therefore, penalty was rightly imposed in the matter. We do not find any merit in the appeal of assessee and the same is accordingly dismissed.

5. In the result, appeal of Assessee dismissed.

Order pronounced in the open Court.

Sd/-
(O.P. KANT)
ACCOUNTANT MEMBER

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 18th September, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT "E" Bench
6.	Guard File

// BY Order //

Asst. Registrar : ITAT Delhi Benches :
Delhi.