INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “G”: NEW DELHI
BEFORE, AMIT SHUKLA JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

ITA No. 3528/Del/2016 for assessment year 2001 – 02
ITA No. 3529/Del/2016 for assessment year 2004 – 05
ITA No. 3530/Del/2016 for assessment year 2005 -06

Yum! Restaurant (India) private ltd 12th floor, Tower D Global business park MG road Gurgaon – 122002 PAN :- AAACY1883E	vs	The Income Tax Officer Ward – 27 (4) CR building New Delhi
(Appellant)		(Respondent)

Assessee by :	Ms Ananya Kapoor, advocate
Revenue by:	Shri NK Bansal Senior Departmental Representative
Date of Hearing	26/9/2019
Date of pronouncement	30/09/2019

O R D E R

PER PRASHANT MAHARISHI, A. M.

1. These are three appeals filed by Yum! Restaurant (India) Private Limited [Appellant] against order of The Commissioner Of Income Tax (Appeals) – 9, New Delhi [CIT (A)] dated 23/3/2016 for Assessment Year 2001 – 02, 2004 – 05 and 2005 – 06 wherein penalty levied by Learned Income Tax Officer, New Delhi [The ld Ao] u/s 271 (1) (c) of The Income Tax Act [The Act] of INR 5,46,098/–, INR 9,42,692/– and Rs. 25,24,204/– are confirmed.
2. Briefly, facts can be culled out that appellant is a company incorporated under provisions of The Companies Act 1956 and is engaged in business of developing and managing franchisees for earning of restaurants fees of Pizza Hut and Kentucky Fried Kitchen restaurants in India. These franchisees operate these restaurants under sub license arrangement that

in turn has a license arrangement with Kentucky Fried Chicken International Holdings Incorporation and Pizza Hut International LLC.

3. The facts for assessment year 2001 – 02 shows that assessee has made a payment of INR 1,500,000/- to Mezbaan Hoteliers Private Limited (related party) for obtaining rent-free accommodation for its managing director. Mezbaan Hoteliers Pvt Ltd has entered into lease agreement with Mrs. Surendra Judge for that property for rent of INR 240,000/– per annum being INR 20,000 per month. There is substantial difference in security deposit. It is clear thus, that, Mezbaan Hoteliers Pvt Limited obtained lease of property from Mrs Surendra Judge for Rs 2,40,000/- p.a. by paying security deposit of Rs 50,000/- , which in turn Mezban Hoteliers rented out to the appellant assessee for Rs 15,00,000/- per annum with security deposit of Rs 50,00,000/. The learned assessing officer disallowed entire amount of lease rent and further made an addition of INR 600,000 on account of national interest at rate of 12% on security deposit of INR 5,000,000/-. The learned CIT – A allowed partial relief to extent of INR 240,000 per annum to be allowed as an expenditure and excess amount was disallowed under section 40A (2) (b) of act, national interest addition made by learned assessing officer was also deleted. On appeal before tribunal order of learned CIT – A was sustained and assessee was allowed partial relief to extent of INR 240,000 per annum only. On this issue on disallowed sum, penalty is levied.

4. For assessment year 2004 – 05 AO disallowed entire claim of lease rent of INR 2710000/- paid by appellant to other party for accommodation of its managing director. The assessee paid lease rent of INR 125,000 per month for 2 months and INR 246,000 per month for subsequent 10 months totaling INR 2 710000/–. The learned assessing officer disallowed above sum. On appeal before CIT appeal he allowed a payment of INR 20,000 per month as reasonable rent and balance expenditure of lease rent was held to be excessive and disallowed u/s 40 A (2) (b) of act. The coordinate bench, on appeal, upheld decision of learned CIT – A.

5. The facts for assessment year 2005 – 06 are also similar as far as issue of disallowance of rent is concerned.

6. Therefore, for all these 3 years penalty was initiated by learned assessing officer and levied by LD AO, which was upheld, by learned CIT Appeal and thus assessee has preferred appeal before us.

7. Before commencement of hearing assessee has raised an additional ground in all 3 appeals challenging that notice issued under section 271 (1) (c) read with section 274 of The Act , order passed under that section are illegal, bad in law and without jurisdiction. It is further agitated that notice has been issued without any specific charge, hence said notice and order passed u/s 271 (1) (c) of act are illegal, bad in law and without jurisdiction. It is further contended that satisfaction recorded, charges levied while completing assessment and while levying penalty are different and hence notice issued under section 274 of act and order passed u/s 271 (1) (c) of act are illegal, bad in law and without jurisdiction. Therefore, it is stated that levy of penalty is illegal, unjust and not in accordance with law. It has further raised as a ground that addition made by learned assessing officer is based on difference of opinion because of allowability of claim of assessee and as such, no penalty can be levied in such cases. All these grounds are titled as ground number 7, 8, 9, 10 and 11 raised as additional grounds.

8. At time of hearing learned counsel submitted that relevant facts are already on record and no new facts are required to be investigated. The above grounds goes to root of matter and therefore same may kindly be admitted and adjudicated placing reliance on decision of honourable Supreme Court in case of National thermal Power Corp 229 ITR 383 (SC).

9. The learned departmental representative vehemently submitted that above grounds should not be admitted at this stage, as they have never been raised either before learned assessing officer or before first appellate authority. Therefore, such a new plea cannot be raised by assessee now. He further submitted that said these additional ground fresh facts are required to be investigated. Assessment record by required to be examined afresh in order to decide this additional ground. Because of facts already on record or placed before learned CIT (A), these additional grounds cannot be decided. Since fresh facts are to be investigated to decide these additional grounds, such additional grounds are strongly opposed. There will be a great prejudiced to revenue in accepting such additional ground. It is also

submitted that assessee has failed to substantiate facts of this case are identical to facts of judgments in case of National thermal Power Corp. He further relied upon several decisions of honourable courts to support his contentions. He relied on CK Gopinathan vs. CIT 260 ITR 213 and Ultratech Cements Ltd vs additional Commissioner of income tax 2017 – TIOL – 785 – HC – BOM – IT and Addl CIT vs Gurjargravurs (p) Ltd 111 ITR 1 (SC). He further submitted that penalty proceedings were properly initiated and proper so cause notice was issued to assessee. He submitted that penalty proceedings were initiated for furnishing inaccurate particulars of income and such proposition of learned assessing officer is clearly mentioned in last paragraph of assessment order, which was sent along with penalty notice. He further submitted that penalty proceedings could be initiated only while completing assessment meaning thereby passing of assessment order. So if it is mentioned in assessment order as to under which clause penalty is being initiated, intention of AO becomes clear and there is no infirmity in penalty notice. He further submitted that learned assessing officer has clearly mentioned in appellant in order that penalty is being imposes assessee has furnished inaccurate particulars of income. She submitted that there was no infirmity in penalty notice or proceedings. He further stated that decision of coordinate bench in case of assessee is not applicable since it is not on record that facts are identical. With respect to issue of correct, Olympic applicable he submitted that decision of honourable Karnataka High Court in CIT vs Manjunath cotton and ginning factory (2013) 359 ITR 565 para number 4 and decision of honourable Supreme Court may kindly be considered. He further referred to decision of honourable Supreme Court in Sundram finance Ltd vs CIT (2018) 99 taxmann.com 152 and also decision of honourable mother High Court where from above decision has arisen.

10. It is further submitted that claim made by assessee in ground number 11 that addition made by learned assessing officer is based on difference of opinion on account of allowability of claim of assessee is an incorrect statement. He submitted that facts clearly show that there is no difference of opinion but it is a clear case of disallowance on facts itself which has been upheld by concurrent authorities. He therefore submitted that these

additional grounds should not be admitted at all and penalty levied by learned AO and confirmed by learned CIT – A for all these 3 years deserves to be confirmed.

11. On merits of case learned counsel submitted that assessee has claimed lease rent as allowable under a bona fide belief, which was further substantiated by valuation certificate obtained from an independent registered valuer. She further referred to valuation certificate which is referred at page number 48 in para 27 of order of coordinate bench. She further submitted that it is not case that no explanation has been given by assessee, but explanation supported by valuation certificate is on record and claim of assessee is bona fide. She further stated that all agreements and relevant documents have been filed and no specific default or fact has been found incorrect or false by AO. She further stated that AO has allowed rental payments made in other years. She heavily relied on decision of honourable Supreme Court in Reliance Petroprodcuts Pvt Ltd 322 ITR 158 stating that merely because assessee has made a claim, which is held to be not allowable that does not mean that penalty is leviable. She further stated that genuineness and commercial expediency of payment has not been doubted by appellate authorities and only quantum of expenditure has been held to be excessive and disallowed. It was also her argument that addition finally sustained by coordinate bench is on estimated basis and it is a trite law that when addition is made on estimated basis, no penalty is leviable. She heavily relied on decision of CIT vs Metal products of India (Punjab and Haryana High Court) 150 ITR 714 and CIT vs white line chemicals (Gujarat High Court) 360 ITR 385. Therefore, she stated that as coordinate bench itself has given part relief to assessee on this issue penalty is not leviable. She further stated that for assessment year 2004 – 05 and 2005 – 06 disallowance has been made by invoking provisions of section 40A (2) of act. She stated that it is a well-settled principle that disallowance under that section can only be made on account of excess quantum of expenditure made on estimate which does not warrant levy of penalty for concealment of income or furnishing of inaccurate particulars of income. She further relied upon decisions of coordinate bench in 124 TTJ 858, ITA number 499/IND/2009 and ITA number 312/Mum/2010.

12. On merits of issues, she stated that there is no tax evasion in previously mentioned transaction and levy of penalty in instant case is unwarranted. She submitted that accommodation was provided in accordance with employment contract between appellant and managing director and tax deduction at source was duly deducted on such payment along with taxing same as perquisites in hands of managing director. The rent received from managing director was duly accounted as income in books of accounts of assessee. She further stated that both appellant as well as recipient of rent are corporate assessee and therefore there cannot be any question of tax evasion which is a precondition for invoking provisions of section 40A (2) of act. She further relied upon circular number 6-P dated 06/07/1968. She further stated that excessive and unreasonableness of expenditure has not been established by learned assessing officer and no material has been placed on record, thus, disallowance is purely on conjectures and surmises for which assessee cannot be invited with penalty. She further stated that when issue is debatable and two views were possible as regards to fair market value of rental payment, thus no penalty could be levied on such an issue.

13. On another issue of alleged personal expenditure of INR 7500/- and INR 59,102/- for assessment year 2001 – 02 and 2004 – 05 , respectively, on which penalty has been levied, she submitted that for assessment year 2001 – 02, appellant has incurred an expenditure of INR 7 500/– on account of car accessories for employees of company as per company policies which were treated as perquisites in hands of employees. The learned assessing officer disallowed above expenditure. For assessment year 2004 – 05 appellant has incurred certain expenditure on account of house maintenance and computer maintenance for employees of company, these expenses were incurred as per staff welfare and maintenance expenditure and was claimed as revenue expenditure allowable u/s 37 of income tax act. The coordinate bench also confirmed action of learned assessing officer and did not allow claim of expenditure of assessee. Therefore, penalty is also levied on this expenditure. On these issues, learned counsel stated that claim of appellant in respect of alleged personal expenditure was a genuine business expenses incurred by

company according to policy of company and such expenditure are allowable as deduction u/s 37 of income tax act. She further stated that addition/disallowance has been made because of undue rejection of bona fide claim of assessee. She further stated that as held by honourable Gujarat High Court in 253 ITR 749 there could not be any personal expenditure in hands of company. She therefore stated that on these issues penalty could not be levied.

14. On issue of additional ground, she submitted that notices of penalty u/s 274 read with section 271 of income tax act has been placed on record in appeal set as well as photocopies are given. For which assessment year 2001 – 02, notice was issued on 29/12/2006 wherein none of twin charges has been cancelled by assessee officer. She further referred to notice for assessment year 2004 – 05 wherein notice dated 27/12/2006 and for AY 2005-06 dated 24/12/2008 none of twin charges are cancelled/ struck off. She submitted that in such circumstances penalty u/s 271 (1) © cannot be levied. She relied upon decision of honourable Supreme Court in CIT vs SSA Emerald Meadows in 73 taxmann.com 248 to support her contention. She also relied on series of decision of coordinate benches where above decision has been followed. She also referred to latest decision of honourable Delhi High Court in case of Sahara financial ITA No 475/2019 dated 2/8/2019 para no 21. Thus, it was stated that issue squarely covered in favor of assessee by above decision of honourable Delhi High Court and honourable Supreme Court.

15. We have carefully considered rival contentions and perused orders of lower authorities for assessment as well as levy of penalty. We have also perused order of coordinate bench dealing with merits of addition wherein order of learned CIT – A is confirmed. Therefore on addition confirmed by coordinate bench, learned assessing officer levied penalty which was confirmed by learned CIT – A and against which assessee is in appeal before us. Briefly stated facts for assessment year 2001 – 02 shows that assessee company has filed its return of income on 31/10/2001 at total income of INR 4 723300/–. This return of income was processed u/s 143 (1) of act. For assessment year 2002 – 03 is account of assessee is nature and complexity of accounts resulted into reference for special audit u/s 142 (2A). On basis

of special audit notice, u/s 148 read with section 147 of act was issued on 28/11/2005. The assessee filed its return of income stating that original return filed on 31/10/2001 may be treated as return in response to notice for reopening of assessment. Thus assessment u/s 143 (3) read with section 147 of income tax act was passed on 29/12/2006 wherein several disallowances were made. One of disallowance on which penalty is levied is disallowance of lease rent paid to Mezbaan Hoteliers Pvt Ltd of INR 1,500,000 and further addition of INR 600,000 on account of unclaimed interest from related parties Mezbaan Hoteliers Pvt Ltd for interest free security deposit for rent of property of Rs 50,00,000/-.

16. The brief fact of above issue shows that there is a lease agreement existing between Mrs. Surendra judge and MEzbaan Hoteliers private limited dated 01/06/2000 for rent for use of house situated at S – 137, Punchsheel Park, New Delhi 17 for annual rent of INR 240,000/- [Rs 20,000/- p.m.] . The assessee entered into sub lease agreement with Mezbaan hoteliers private limited on 01/06/2000 wherein above property was taken at a monthly rent of INR 125,000/–. The assessee took above property only is for residential purposes of managing director and his family. Assessee also paid interest free security deposit of INR 5,000,000/- to Mezbann hoteliers private limited and Mezbaan hoteliers private limited paid interest free security deposit of only INR 50,000/- to Ms Surendra judge. The AO also noted that Mezbaan Hoteliers Pvt ltd is a sister concern of the assessee because of directors of that company are related to the directors of the appellant closely. He held that owner of property is Mrs. Surendra judge who is related to Mr. and Mrs. Sandeep Kohli, Mrs. Shah A Naaz is wife of Sandeep Kohli who is along with father of Mr. Sandeep Kohli is director of Mezban hoteliers' private limited. Mr. Sandeep Kohli is managing director of assessee for whose residence impugned property was rented. Therefore, learned assessing officer questioned about transaction and made disallowance of INR 1,500,000 as rent paid to Mezbann hotelier's private limited and made an addition of interest at rate of 6% on INR 5,000,000 given as interest free deposit to that company. Thus, total addition of INR 2,100,000 was made by AO on this transaction. While making disallowance learned assessing officer stated that assessee has filed

inaccurate particulars of income and tried to reduce tax liability and therefore provisions of section 271 (1) (C) of act are attracted and hence penalty proceedings are initiated separately.

17. The assessee challenged above issue before learned CIT – A who granted partial relief to assessee. The order of CIT – A was challenged before coordinate bench by cross appeals by assessee and revenue both. However, order of CIT – A has not been placed on record by assessee. Assessee has also not produced order of coordinate bench for impugned assessment year. However, at time of argument she referred to consolidated order of coordinate bench for assessment year 2002 – 03, 2003 – 04 and 2006 – 07, which are part of paper book at page number 68 – 161. She also referred to consolidated order of coordinate bench for assessment year 2004 – 05 and 2005 – 06 placed at page number 20 – 67 of paper book. She also referred to order of coordinate bench in case of assessee for assessment year 2000 – 01 placed at page number 11 – 19 and coordinates bench-consolidated order for assessment year 2002 – 03, 2003 – 04 and 2006 – 07 at page number 1 – 10 of paper book. However, order of coordinate bench for assessment year 2001 – 02 was not placed in paper book. Thus while deciding issue, we do not have privilege of looking at order of CIT appeal and coordinate bench for impugned assessment year 2001 – 02, for which penalty has been levied and confirmed by lower authorities. However, facts are identical as we could catch from order for assessment year 2002 – 03 placed at page number 68 of paper book. At para number 41 facts are culled out which are identical to facts for assessment year 2001 – 02. It shows that assessee has paid rent of INR 1,500,000, which was disallowed by learned assessing officer, learned CIT – A confirmed disallowance of only INR 900,000 holding that reasonable rent would be INR 50,000 of property. On appeal before coordinate bench in para number 46 coordinate bench held that reasonable rent cannot be allowed of INR 50,000 as held by learned CIT – A when reasonable rent could only be INR 20,000 per month which is paid by recipient of rent from assessee to Surendra judge. Thus, original disallowance made by AO of INR 150,000 per month was restricted by learned CIT – A to INR 100,000 was further restricted by coordinate bench to INR 130,000 per month. Therefore, original disallowance made of

INR 150,000 per month was restricted to INR 130,000 per month by coordinate bench. On this disallowance penalty is levied by learned assessing officer as per order dated 24/3/2014. Before AO assessee submitted that though disallowances confirmed partly by ITAT, genuineness of transaction has not been doubted and disallowance has been made only on account of excessive nature of payment to a related party. Therefore transactions were genuine and not sham as pointed out in assessment order. The learned assessing officer rejected contention of assessee and stated that assessee has failed to observe relevant finding of ITAT, which questions basic logic of paying excessive amount of INR 1,260,000 to a related party. He held that finding of coordinate bench is no less than declaring excess amount as sham transaction. He submitted that penalty has already been upheld by CIT – A for assessment year 2002 – 03, 2003 – 04 and 2006 – 07 on identical issue. The assessee challenged it before CIT – A, who confirmed penalty as per his order for assessment year 2002 – 03, 2003 – 04 and 2006 – 07. On merits of this addition, it is apparent that assessee has furnished inaccurate particulars of its income by claiming the deduction of the rental expenditure, which is not at all supported by any evidence to show that it is not an excessive and unreasonable. The learned assessing officer had the evidence that the same property for which the assessee is paying rent of INR 125,000 per month, which has increased substantially in the letter on years, was in fact having the fair rent of only INR 20,000 per month. Therefore it is apparent that the rent paid by the assessee is six time higher than the fair value of the rent. The feeble attempt is made by the assessee by supporting the rent paid by the assessee by valuation certificate. Even the coordinate bench did not give much credence to such certificate in confirming the disallowance. Even otherwise, there is no reason to take the above valuation certificate at its face value, which justifies the rent paid by the assessee, which is 6 times higher than the fair value of the rent, which is the actual transaction value between two parties. There is no justification in the whole transaction that security deposit paid to the related party is hundred times higher than the security deposit paid by the related party to the person from who is the original owner of the property. Thus, the addition is not confirmed on the

estimate but on the sound logic that the transaction is sham. Even in the penalty proceedings, the assessee failed miserably to justify that why the rent was paid 6 times higher and interest free securities deposit are hired by hundred times for the same property. Before us, there is no justification coming forth from the assessee. No decisions cited by the learned authorised representative match the startling facts of the present case where the rent is paid 6 times higher than the actual rent and interest free security deposit is hundred times higher of the same property. Thus, reliance on all these decisions by the learned authorised representative is rejected. Further, the argument of the learned counsel that there is a difference of opinion on the issue of the above disallowance is also devoid of any merit for the reason that the learned assessing officer, the learned CIT appeal and the coordinate bench has reached at the same conclusion except the amount of disallowance, that the transaction of the assessee is not in order. In view of this, on the merits, on this addition, the penalty is required to be confirmed for the reason that assessee has furnished inaccurate particulars of its income and failed to substantiate its explanation.

18. However on the other to additions with respect to the expenditure held to be not for the purposes of the business under section 37 of the act, we do not find it proper to uphold the penalty u/s 271 (1) © of the act.

19. In view of the above facts, on the merits of the case, subject to our decision on the additional ground raised by the assessee, the orders of the lower authorities levying the penalty with respect to the axis rental deduction claimed by the assessee disallowed by the lower authorities deserves to be confirmed.

20. On the issue of admission of additional ground of appeal in all these three appeals, order of CIT Appeal was challenged before coordinate bench who passed an order in ITA number 894/895/896 Del 2013 wherein admitting additional ground of assessee with respect to not specifying any of twin charges in notice, penalties were cancelled. Identical additional ground has been raised by assessee for these years. Therefore according to judicial precedent available before us in assessee's own case as well as it is merely a legal issue, which can be raised by assessee at any stage, we must admit

additional ground raised by assessee. Further claim of learned departmental representative that fresh facts are required to be investigated is also not acceptable because of reason that penalty notices issued under 274 of income tax act are already available on appeal files. Thus, respectfully following decision of coordinate bench in assessee's own case on same set of facts, we admit additional grounds raised by assessee.

21. Now coming to additional grounds raised challenging fact that in notices issued for levy of penalty u/s 271 (1) © read with section 274 has not mentioned clearly any of twin charges for which penalty is initiated. Though in assessment order penalty has been initiated by assessing officer for furnishing inaccurate particulars of income but in accompanying notice along with assessment order learned assessing officer has not cancelled 1 of twin charges for making charge very specific and clear to assessee. The honourable Karnataka High Court in para number 63 in **Commissioner of Income-tax *v.* Manjunatha Cotton & Ginning Factory**javascript:void(0); [2013] 35 taxmann.com 250 (Karnataka)/[2013] 218 Taxman 423 (Karnataka)/[2013] 359 ITR 565 (Karnataka)/[2013] 263 CTR 153 (Karnataka) has held as under:-

> *p*) Notice under Section 274 of Act should specifically state grounds mentioned in Section 271(l)(c), i.e., whether it is for concealment of income or for furnishing of incorrect particulars of income
>
> (*q*) Sending printed form where all ground mentioned in Section 271 are mentioned would not satisfy requirement of law.

Further, in 73 taxmann.com 241 honourable Karnataka High Court in CIT vs SSA emeralds Meadows has also held that when tribunal has allowed appeal filed by assessee holding that notice issued by AO u/s 274 read with section 271 (1) © of income tax act 1961 to be bad in law as it did not specify which Limbaugh of section 271 (1) © rd of act, penalty proceedings had been initiated i.e. whether for concealment of particulars of income or furnishing of inaccurate particulars of income. The tribunal while allowing appeal of assessee has relied on decision of division bench of honourable Karnataka High Court rendered in case of CIT vs Manjunath a cotton and ginning factory (supra). Thus, honourable Karnataka High Court has held that matter is covered by judgments of division bench of that court. The

above decision of Karnataka High Court was challenged by revenue before honourable Supreme Court by filing a special leave petition which was dismissed in 73 taxman.com 248 (2016) (SC). Further honourable Delhi High Court also in ITA 475/2019 in PR. COMMISSIONER OF INCOME TAX, versus M/S SAHARA INDIA LIFE INSURANCE COMPANY, LTD in para number 21 has held as under:-

> "21. The Respondent had challenged the upholding of the penalty imposed under Section 271(1) (c) of the Act, which was accepted by the ITAT. It followed the decision of the Karnataka High Court in ***CIT v. Manjunatha Cotton & Ginning Factory 359 ITR 565 (Kar)*** and observed that the notice issued by the AO would be bad in law if it did not specify which limb of Section 271(1) (c) the penalty proceedings had been initiated under i.e. whether for concealment of particulars of income or for furnishing of inaccurate particulars of income. The Karnataka High Court had followed the above judgment in the subsequent order in ***Commissioner of Income Tax v. 2016) 73 Taxman.com 241 (Kar)***, the appeal against which was dismissed by the Supreme Court of India in SLP No.11485 of 2016 by order dated 5 th August, 2016. 22. On this issue again this Court is unable to find any error having been committed by the ITAT. No substantial question of law arises."

22. Therefore, the identical issue has been decided of the levy of the penalty on the basis of not striking of any of the twin charges in the notice issued u/s 274 of the income tax act in earlier years cancelling the penalty levied by the coordinate bench, the decision of the honourable Karnataka High Court, and decision of the honourable Delhi High Court as stated above, the judicial discipline demands that we follow the decision of the coordinate bench in case of the assessee on identical facts and circumstances. Therefore, respectfully following the decision of the coordinate bench in assessee's own case on identical facts and circumstances, we direct the learned assessing officer to delete the penalty with respect to all 3 years reversing the orders of the learned CIT – A. In view of this, the additional grounds raised by the assessee are allowed.

23. In the result all the 3 appeals filed by the assessee are partly allowed on the basis of the additional grounds raised by the assessee, cancelling the penalty levied u/s 271 (1)(C) of the act by the learned Assessing Officer and confirmed by the learned CIT – A . Consequently orders of lower authorities are reversed for all these three years.

Order pronounced in open court on 30/09/2019.

-Sd/-	-Sd/-
(AMIT SHUKLA)	(PRASHANT MAHARISHI)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Dated: 30/09/2019
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi