

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

Before Sh. Amit Shukla, Judicial Member

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

(Through Video Conferencing)

ITA No. 2768/Del/2017 : Asstt. Year : 2010-11

ACIT, Circle 21(2), New Delhi	Vs	M/s. Religare Securities Ltd. D-3, P3B, District Centre, Saket New Delhi-110017
(APPELLANT)		(RESPONDENT)
PAN No. AAACF1952D		

Assessee by : Sh. Rohit Jain, Adv.

Revenue by : Ms. Sushma Singh, CIT, DR

Date of Hearing: 05.11.2020	Date of Pronouncement: 10.11.2020
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ORDER

Per Amit Shukla, Judicial Member:

The present appeal has been filed by the Revenue against the order of the Id. CIT(A)-7, New Delhi dated 27.02.2017.

2. Following grounds have been raised by the assessee:

"1. That on facts and circumstances of the case, the Ld. CIT(A) has erred in deleting the penalty of Rs. 71,25,588/- levy by the AO u/s 271(1)(c) of I.T. Act, 1961

2. That on facts and circumstances of the case, the Ld. CIT(A) has erred in deleting the penalty u/s 271(1)(c) of I.T. Act, 1961 only on the ground that the quantum addition on similar issue had been deleted by the Hon'ble ITAT in another case i.e. Religare Commodities Pvt. Ltd. Whereas the quantum addition in the case of assessee had been upheld by the Ld. CIT(A) holding that the loss on

account of SAR expenses was capital in nature and not allowable as revenue expense."

3. The AO levied penalty of Rs.1,03,58,000/- u/s 271(1)(c) of the Income Tax Act, 1961. The penalty has been levied by the AO owing to the disallowances made by the revenue on account of depreciation claimed on UPS, claim of prior period items and SAR scheme expenses.

4. These expenses have been allowed by the order of the Tribunal in ITA No.4644/Del/2015 vide order dated 09.10.2017. Hence, at this juncture, penalty levied u/s 271(1)(c) is not sustainable.

5. In the result, the appeal of the assessee is allowed.
Order Pronounced in the Open Court on 10/11/2020.

Sd/-

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

Dated: 10/11/2020

Subodh/Binita

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Amit Shukla)
Judicial Member

ASSISTANT REGISTRAR