

**IN THE INCOME TAX APPELLATE TRIBUNAL "G" BENCH, MUMBAI**

**BEFORE SHRI SHAMIM YAHYA, AM AND AMARJIT SINGH, JM**

ITA No. 2995/Mum/2019  
(Assessment Year: 2011-12)

DCIT(IT)-2(3)(2) 1614, 16 <sup>th</sup> Floor, Air India Building Nariman Point, Mumbai-400 021	Vs.	Gurgaon Investments Ltd. C/o M/s. G M Kapadia & CO. 1001, Raheja Chambers, 213, Nariman Point Mumbai-400 021
PAN/GIR No. AABCI7404E		
<b>(Appellant)</b>	:	<b>(Respondent)</b>

<b>Appellant by</b>	:	Shri Nitesh Joshi
<b>Respondent by</b>	:	Shri T.S.Khalsa

<b>Date of Hearing</b>	:	24/02/2021
<b>Date of Pronouncement</b>	:	19 /05/2021

**ORDER**

Per Shamim Yahya, A. M.:

This appeal by the revenue is directed against the order of the learned Commissioner of Income Tax (Appeals)-56, Mumbai ('ld.CIT(A) for short) dated 08.03.2019 and pertains to the assessment year (A.Y.) 2011-12.

2. The grounds of appeal read as under:

1. Whether on the facts and on circumstances of the case and in law , the Ld. CIT(A) has erred in cancelling the penalty, levied u/s 271(1)(c) of the I.T. Act by observing that there is no case of furnishing of inaccurate particulars of income, without appreciating the fact that the assessee clearly furnished inaccurate particulars of income by not charging interest to be charged on the funds given as CCDs to its overseas Associated Enterprises even when as per provisions of law it was mandatory to charge it."

2. "Whether on the facts and on circumstances of the case and in law, the Ld. CIT(A) has erred in cancelling the penalty, levied u/s 271(1)(c) of the I.T. Act by observing that the assessee has furnished the relevant detail in 3CEB report, without appreciating the fact that merely providing detail of the transactions made with the Associate entity in 3CEB report is not suffice to prove that it had disclosed full and correct particulars of its income."

3. At the outset in this case, Ld. Counsel of the assessee submitted that the quantum appeal in this case in ITA No. 7359/Mum/2016 vide order dated 15/11/2019, the ITAT has deleted the addition. Hence, be pleaded that in this view of this matter, the penalty appeal before the ITAT with reference to above addition does not survive. The Ld. DR could not controvert that ITAT has deleted the addition.

4. Upon hearing both the parties and perusing the records, we uphold the order of the Ld. CIT(A) deleting this penalty in as much as ITAT has deleted the addition with reference to which this penalty has been levied.

5. In the result, the revenue's appeal is dismissed.

*Order pronounced in the open court on 19.5.2021.*

Sd/-  
(Amarjit Singh)  
Judicial Member

Sd/-  
(Shamim Yahya)  
Accountant Member

Mumbai; Dated : 19.05.2021

Thirumalesh, Sr. PS

**Copy of the Order forwarded to :**

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

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai