

**आयकर अपीलीय अधिकरण, 'बी' न्याय पीठ, चेन्नई**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' BENCH, CHENNAI**  
**श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष**  
**BEFORE SHRI V.DURGA RAO, JUDICIAL MEMBER**  
**AND SHRI G.MANJUNATHA, ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A.Nos.590 to 592/Chny/2019**

(निर्धारणवर्ष / Assessment Years: 2008-09 to 2010-11)

Deputy Commissioner of Income Tax, Corporate Circle-1(2), Chennai-600 034.	Vs	M/s.Chettinad Hospitals Pvt.Ltd. 5 <sup>th</sup> floor, 603, Rani Seethai Hall Building, Anna Salai, Chennai-600 006.
		PAN: AACCC 5036B
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Mr. G.Johnson, Addl.CIT
प्रत्यर्थी की ओरसे/Respondent by	:	Mr. S.Sridhar, Advocate

सुनवाई की तारीख/Date of hearing	:	07.09.2021
घोषणा कीतारीख /Date of Pronouncement	:	07.09.2021

**आदेश / ORDER**

**PER G.MANJUNATHA, AM:**

These three appeals filed by the Revenue are directed against common order passed by the learned CIT(A)-1, Chennai dated 31.12.2018 and pertains to assessment years 2008-09, 2009-10 and 2010-11. Since, the facts are identical and issues are common, for the sake of convenience, these appeals are heard together and are being disposed off, by this consolidated order.

2. The Revenue has more or less raised common grounds of appeal for these assessment years, therefore, for the sake

of brevity, grounds of appeal filed for the assessment year 2008-09 are reproduced as under:-

*"1. The order of the Ld. CIT(A) is contrary to law, facts and circumstances, of the case.*

*2. The Ld.CIT(A) erred in giving relief to the assessee by deleting the penalty under section 271(l)(c) of the Act when the quantum issue is still pending adjudication by the Hon'ble High Court.*

*3. The Ld.CIT(A) erred in giving relief to the assessee in the present case of penalty when in the quantum appeal itself the business loss claimed by assessee was found to be not genuine by the AO, as the remuneration for services rendered was not as per the market price & the loss incurred as a result of the scheme of arrangement between the assessee and its associate concern by which the expenses of the associate concern (A trust registered u/s. 12AA) were booked in the assessee's accounts against a paltry sum received from the associate concern as management fees thereby violating the provisions of Sec.37 of the I.T. Act."*

3. Brief facts of the case are that assessment for impugned assessment years has been completed u/s.143(3) r.w.s.147 of the Income Tax Act, 1961. The assessee has challenged assessment order before the Tribunal. The ITAT., Chennai Benches vide its order dated 01.06.2016 in ITA Nos.3068 to 3070/Mds/2014 has deleted additions made by the Assessing Officer. In the meantime, the Assessing Officer has levied penalty u/s.271(1)(c) of the Income Tax Act, 1961 and levied penalty for concealment of particulars of income for all three

assessment years. The assessee has challenged penalty order passed by the Assessing Officer before the CIT(A) and learned CIT(A) vide order dated 31.12.2018 deleted penalty levied by the Assessing Officer by considering fact that the ITAT has deleted additions made by the Assessing Officer in assessment proceedings. Aggrieved by the learned CIT(A) order, the Revenue is in appeal before us.

4. The learned DR submitted that the learned CIT(A) has erred in deleting penalty u/s.271(1)(c) of the Act, when quantum issue is still pending for adjudication by the Hon'ble High Court.

5. The learned A.R for the assessee, on the other hand, submitted that when addition was deleted, then penalty levied on such addition cannot survive under the law. Therefore, there is no error in the order passed by the learned CIT(A) to delete penalty levied by the Assessing Officer u/s.271(1)(c) of the Act.

6. We have heard both the parties, perused material available on record and gone through orders of the authorities below. We find that the Tribunal in ITA Nos.3068 to

3070/Mds/2014 dated 01.06.2016 has deleted additions made by the Assessing Officer for all three assessment years. Once addition on which penalty has been levied u/s.271(1)(c) of the Act, itself was deleted by the appellate authority, then penalty levied on such addition cannot survive under law. The learned CIT(A), after considering relevant facts has rightly deleted penalty levied by the Assessing Officer u/s.271(1)(c) of the Act. There is no error in the order of learned CIT(A) and hence, we are inclined to uphold findings of the learned CIT(A) and dismiss appeals filed by the revenue for all three assessment years.

7. In the result, appeals filed by the Revenue for assessment years 2008-09 to 2010-11 are dismissed.

Order pronounced in the open court on 7<sup>th</sup> September, 2021

Sd/-  
( वी. दुर्गा राव )  
(V.Durga Rao)  
न्यायिक सदस्य /Judicial Member  
चेन्नई/Chennai,

Sd/-  
( जी. मंजुनाथ )  
( G.Manjunatha )  
लेखा सदस्य / Accountant Member

दिनांक/Dated 7<sup>th</sup> September, 2021

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. Appellant
2. Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.