

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" NEW DELHI**

**BEFORE SHRI G.S. PANNU, PRESIDENT
AND
SHRI AMIT SHUKLA, JUDICIAL MEMBER**

I.T.A. No.981/DEL/2021
Assessment Year: 2008-2009

ITO, Ward-23(1), New Delhi.	vs.	Shalimar Town Planners Pvt. Ltd., M-11, Middle Circle, Connaught Circus, New Delhi.
TAN/PAN: AABCS5851R		
(Appellant)		(Respondent)

Appellant by:	Shri R.K. Gupta, Sr.D.R.		
Respondent by:	Shri Ajay Bhagwani, CA		
Date of hearing:	24	09	2021
Date of pronouncement:	24	09	2021

ORDER

PER AMIT SHUKLA, JM

The aforesaid appeal has been filed by the Revenue against the impugned order dated 09.04.2021, passed by Ld. Commissioner of Income Tax (Appeals)-XXX, New Delhi in relation to penalty proceedings u/s.271(1)(c) for the Assessment Year 2008-09. In the grounds of appeal, the Revenue has raised following grounds:

“Whether, on the facts and circumstances of the case and in law, the CIT(A) was justified in deleting the penalty of Rs.84,46,338/- levied u/s. 271(1)(c) of the Act?”

2. *Whether, on the facts and circumstances of the case, Ld.CIT(A) was justified in not appreciating the fact that the issue of quantum is yet to attain finality as the department*

has filed an appeal before the High Court of Delhi against the ITAT's order quashing the assessment order made u/s. 153C/143(3)?”

2. From the bare perusal of the impugned order of the Id. CIT(A), we find that the Id. CIT(A) has deleted the penalty on the ground that this Tribunal has quashed the assessment order passed by the Assessing Officer as invalid, therefore, penalty levied by the Assessing Officer has no basis to stand. From the perusal of the material available on the record, we find that in the quantum proceedings, matter has been decided in favour of the assessee by this Tribunal vide order dated 30.06.2020 in ITAs No.6307/Del/2013 and 6345/Del/2013 for the Assessment Year 2008-09 wherein the Tribunal has quashed the assessment order passed by the Assessing Officer. Thus, once the assessment order itself has been quashed, the penalty arising out of such quantum of assessment also deserves to be quashed. Accordingly, we uphold the order of the Id. CIT(A).

3. In the result, the appeal of the Revenue is dismissed.

Above decision was announced on conclusion of Virtual Hearing in the presence of both the parties on 24th September, 2021

Sd/-
[G.S. PANNU]
[PRESIDENT]

DATED: 24/09/2021

PKK:

Sd/-
[AMIT SHUKLA]
JUDICIAL MEMBER