INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "**A**": NEW DELHI

BEFORE SHRI R.K.PANDA, ACCOUNTANT MEMBER
AND
SHRI N. K. CHOUDHRY, JUDICIAL MEMBER
(Through Video Conferencing)

ITA No. 368/Del/2018
(Assessment Year: 2013-14)

JCIT, Special Range-1, New Delhi	Vs.	Airport Authority of India, Block-A, Rajiv Gandhi Bhawan, Safdarjung Airport, New Delhi
(Appellant)		**(Respondent)**

Revenue by :	Shri Anil Kathuria, Ld. CA
Assessee by:	Shri Manu Chourasia, Sr. DR
Date of Hearing	03/02/2022
Date of pronouncement	03/02/2022

O R D E R

PER N.K. CHOUDHRY, J. M.:

1. The Assessee has preferred the instant appeal against the order dated 06.09.2017 impugned herein passed by the ld. Commissioner of Income Tax (Appeals)-32 New Delhi (hereinafter referred to "Ld. Commissioner") u/s 250 of the Income tax Act, 1961 (in short "the Act"), whereby the ld.Commissioner deleted the penalty of Rs. 8,00,54,270/- levied by the AO u/s 271(1)(c) of the Act.

2. The Assessee is engaged in the business of maintenance and operation of air traffic and airports in India and had e-filed its return of income on dated 29.09.2013 by declaring total income of Rs. 20,70,60,40,090/- for the Assessment Year 2013-14 under consideration. The case of the Assessee was selected for scrutiny and resulted into additions on account of disallowances of Rs. 23,47,78,000/- qua unspent expenses towards CSR and Rs. 19,00,00,00/- qua unspent expenses towards Retired Medical Benefits and Benevolent Fund.

3. Against the said additions, the Assessee has preferred first appeal i.e. 2523/16-17 before the ld. Commissioner.

4. The AO also imposed the penalty of Rs. 8,00,54, 270/- being 100% of the tax on the basis of said additions/income sought to be evaded as alleged .

5. The Assessee against the levy of penalty also, preferred the first appeal before the ld. CIT(A) who vide impugned order dated 06.09.2017 deleted the penalty, against which the RevenueDepartment has preferred the instant appeal.

6. Heard the parties and perused the material available on record. It was claimed by Ld. AR and not refuted by the Ld. DR. that the Hon'ble Tribunalvide itsorder dated 01.09.2021 allowed the quantum appeal i.e. ITA No. 3295/Del/2017 filed by the Assessee andremandedthe matter to the file of the ld. Commissioner for decision afresh, consequently the penalty also cannot survive.

Since the Hon'ble Tribunalin the afore-stated case,has already remanded the quantum matter to the file of the ld. Commissioner for decision afresh, we deem it appropriate to remand this penalty case also to the file of the ld. Commissioner for decision afresh along with or after the outcome of quantum matter, hence ordered accordingly.

7. In the result, the appeal filed by the RevenueDepartment stands allowed for statistical purposes.

Order pronounced in the open court on 03/02/2022.

-Sd/-	-Sd/-
(**R.K.PANDA**)	(**N.K. CHOUDHRY**)
ACCOUNTANT MEMBER	JUDICIAL MEMBER

Dated: 03/02/2022
A K Keot

Copy forwarded to

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

ASSISTANT REGISTRAR
ITAT, New Delhi