

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI

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

ITA No.7191 &7192/Del/2018
(Assessment Year:2010-11 &2011-12)

HEG Ltd,
101, Industrial Area,
Mandideep, Raisen, Madha
Pradesh
PAN: AAACH6184K
(Appellant)

Vs. DCIT,
Central Circle-31,
New Delhi
(Respondent)

Assessee by :	Shri Puneet Jain, CA
Revenue by:	Shri Hemant Gupta, Sr. DR
Date of Hearing	15/02/2022
Date of pronouncement	15/02/2022

ORDER

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

1. These appeals have been preferred by the assessee against the orders dated 14.09.2018 impugned herein passed by the Id. Commissioner of Income Tax (A)-1, Bhopal (MP) (in short Id. Commissioner), whereby the Id. Commissioner confirmed the penalty levied by the AO u/s 271(1)(c) of the

Income Tax Act, 1961 (in short " the Act") for Assessment Years 2010-11 and 2011-12.

2. As the facts and issues involved in the appeals under consideration are exactly similar and therefore, the same have been taken simultaneously for adjudication and for brevity we shall quote the facts and issues involved in ITA no. 7191/Del/2018.

3. At the outset, it was submitted by the Ld. AR of the Assessee and not refuted by the Id. DR that an addition of Rs. 42,21,790/- was made on account of disallowance u/s 14A of the Act by the AO vide order dated 14.02.2013 u/s 143(3) of the Act and on the basis of the said addition the penalty to the tune of Rs. 42,01,119/- was imposed by the AO vide order dated 31.03.2015 u/s 271(1)(c) of the Act.

4. The said addition was challenged upto the level of ITAT and the Hon'ble Tribunal vide order dated 14.07.2017 in ITA No. 560, 570 and 571/Ind/2013 restored the issue qua addition on account of disallowance u/s 14A of the Act, to the file of the AO for fresh adjudication.

5. Since the addition on the basis of which the penalty under challenge was imposed, itself is not in existence therefore, penalty under challenge cannot survive, resultantly, penalty stands deleted and appeals of the assessee are allowed.

6. We may clarify that the AO shall be at liberty to initiate fresh penalty proceedings depending upon the adjudication of the issue qua disallowance u/s 14A of the Act.

7. In the result, both the appeals filed by the assessee stands allowed.

Order pronounced in the open court on 15/02/2022.

-Sd/-
(R.K. PANDA)
ACCOUNTANT MEMBER

-Sd/-
(N.K. CHOUDHRY)
JUDICIAL MEMBER

Dated:15/02/2022
A K Keot

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

ASSISTANT REGISTRAR
ITAT, New Delhi