

IN THE INCOME TAX APPELLATE TRIBUNAL  
[ DELHI BENCH "E" NEW DELHI ]

BEFORE SHRI G. S. PANNU, PRESIDENT  
A N D  
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

आ.अ.सं./I.T.A No. 2991/Del/2019  
निर्धारणवर्ष/Assessment Year: 2010-11

DCIT Circle : 18 (2), New Delhi.	बनाम Vs.	Noida Software Technology Park Ltd., Scindia Villa, Sarojini Nagar, Ring Road New Delhi - 110 023.
		PAN : AABCN0137F
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारितकीओरसे / Assessee by :	None;
राजस्वकीओरसे / Department by :	Shri Shashi Bhushan Shukla, [CIT] - D.R.;

सुनवाईकीतारीख/ Date of hearing :	07/06/2022
उद्घोषणाकीतारीख/Pronouncement on :	07/06/2022

आदेश / O R D E R

PER C. N. PRASAD, J. M. :

1. This appeal filed by the Revenue is against the order of the Id. Commissioner of Income Tax (Appeals)-6 [hereinafter referred to as CIT (Appeals)] New Delhi, dated 30.01.2019 in deleting penalty levied under Section 271(1)(c) of the Income Tax Act, 1961 (the Act) for assessment year 2010-11.

2. In spite of issue of notice none appeared on behalf of the assessee. This appeal is disposed of on hearing the ld. DR.

3. On hearing the ld. DR and perusing the order of the ld. CIT (Appeals) we observe that the Tribunal vide order dated 9.02.2018 has deleted the addition of Rs.9,19,93,625/- which was the basis for imposition of penalty. The ld. CIT (Appeals) in his order also observed that Hon'ble Delhi High Court in ITA. No. 1095/2018 dated 28.11.2018 in Pr. CIT Vs. Noida Software Technology Park Ltd. dismissed the appeal of the Department. The ld. CIT (Appeals) also observed that the assessment order on the basis of which the penalty was levied has been set aside by the ITAT to the Assessing Officer. The penalty cannot stand by itself and is liable to be cancelled. Before us the Revenue could not admit any change in position thereafter. Therefore, since the quantum addition stands set aside to the Assessing Officer the penalty has no legs to stand. Accordingly, we sustain the order of the ld. CIT (Appeals) and reject the grounds raised by the Revenue.

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

Order pronounced in the open court on : 07/06/2022.

Sd/-  
( G. S. PANNU )  
PRESIDENT

Sd/-  
( C. N. PRASAD )  
JUDICIAL MEMBER

Dated : 07/06/2022.

\*MEHTA\*

Copy forwarded to :

1. Appellant;
2. Respondent;
3. CIT

4. CIT (Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi.

Date of dictation	07.06.2022
Date on which the typed draft is placed before the dictating member	07.06.2022
Date on which the typed draft is placed before the other member	07.06.2022
Date on which the approved draft comes to the Sr. PS/ PS	07.06.2022
Date on which the fair order is placed before the dictating member for pronouncement	07.06.2022
Date on which the fair order comes back to the Sr. PS/ PS	07.06.2022
Date on which the final order is uploaded on the website of ITAT	07.06.2022
Date on which the file goes to the Bench Clerk	07.06.2022
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	