

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. YOGESH KUAMR US, JUDICIAL MEMBER**

ITA No.4632/Del/2019
Assessment Year: 2010-11

DCIT Circle-1 LTU New Delhi	Vs	SRF Limited The Galleria DLF Mayur Vihar, Unit No. 236, 237, Second Floor, Mayur Place, Noida Link Road, Mayur Vihar, Phase-1, Delhi-110091 PAN No. AAACS0206
(APPELLAN		(RESPONDENT)

Cross Objection No. 51/Del/2022
(ITA No.4632/Del/2019)
Assessment Year: 2010-11

DCIT Circle-1 LTU New Delhi	Vs	SRF Limited The Galleria DLF Mayur Vihar, Unit No. 236, 237, Second Floor, Mayur Place, Noida Link Road, Mayur Vihar, Phase-1, Delhi-110091 PAN No. AAACS0206
(APPELLAN		(RESPONDENT)

Appellant	Sh. R. S. Yadav, Sr. DR
Respondent	Sh. Pradeep Dinodia, CA

Date of hearing:	20/06/2022
Date of Pronouncement:	20/06/2022

ORDER**PER N.K. BILLAIYA, AM:**

ITA No.4632/Del 2019 and Cross Objection No.51/Del/2022 are appeal and cross objection by the revenue and assessee preferred against the order of the CIT(A)-22, New Delhi dated 28.02.2019 pertaining to A.Y.2010-11.

2. The appeal and the cross objection were heard together and are disposed of by this common order for the sake of convenience and brevity.

3. First we will address to the appeal of the revenue. The solitary grievance of the revenue is that the CIT(A) erred in deleting the penalty levied by the AO u/s. 271 (1) (c) of the Act. A perusal of the orders of the authorities below show that the penalty levied on the additions/ disallowances made on account of corporate guarantee fee, interest on foreign currency disallowance u/s. 35(2AB) of the Act and donation to SRF Vidyalaya.

4. We find that in so far as the addition on account of corporate guarantee fee and interest on foreign currency loans and advances are concerned the impugned addition have been

deleted by this Tribunal in ITA No.356/Del/2015 order dated 24.02.2020. Since the addition have been deleted we do not find any justification in the levy of penalty u/s. 271 (1) (c) of the Act and the same has been rightly deleted by the CIT(A) and, therefore, no interference is called for.

5. In so far as disallowance u/s. 35 (2AB) is concerned. In our considered opinion the claim of the assessee was bonafide the only point of concern was that the department of Scientific and Industrial Research vide letter dated 12.07.2012 has approved the sum of Rs.1282.46 lakhs including additional 50% of revenue expenditure of Rs.1023.53 lakhs whereas the assessee has claimed deduction of Rs.1305.26 lakhs which prompted the AO to make the impugned disallowance. In our humble opinion the assessee's claim is being bonafide levy of penalty u/s. 271 (1) (c) of the Act is not justified in the light of the ratio laid-down by the Hon'ble Supreme Court in the case of Reliance Petro Products 322 ITR 158.

6. Considering the facts of the case in totality we decline to interfere with the findings of the CIT(A). The appeal filed by the revenue is accordingly dismissed.

Cross Objection No.51/Del/2022 (A. Y.2010-11)

1. Cross objection of the assessee is in respect of the penalty confirmed by the CIT(A) on disallowance of donation made to SRF Vidyalaya amounting to Rs.4,28,000/-/

2. We find that this Tribunal in ITA No.356/Del/2015 vide order dated 04.02.2020 has deleted the disallowance. Since the addition has been deleted no penalty is leviable u/s. 271 (1) (c) of the Act. The AO is directed to delete the impugned penalty on the addition made on account of donation to SRF Vidyalaya.

3. In the result, the Cross objection filed by the assessee is allowed

Decision announced in the open court on 20.06.2022.

Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER

NEHA, Sr. Private Secretary
Date:-20.06.2022

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	20.06.2022
Date on which the typed draft is placed before the dictating Member	20.06.2022
Date on which the typed draft is placed before the Other member	20.06.2022
Date on which the approved draft comes to the Sr.PS/PS	20.06.2022
Date on which the fair order is placed before the Dictating Member for Pronouncement	20.06.2022
Date on which the fair order comes back to the Sr. PS/ PS	20.06.2022
Date on which the final order is uploaded on the website of ITAT	20.06.2022
Date on which the file goes to the Bench Clerk	20.06.2022
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	