

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

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No. 9756/Del/2019
(Assessment Year : 2005-06)

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| ACIT Circle – 25(2) New Delhi PAN No. AABCT 0424 B (APPELLANT) | Vs. | TV Today Network Ltd. F-26, First Floor, Connaught Circus, New Delhi-110 001 (RESPONDENT) |
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| Assessee by | Shri Mahil Aggarwal, Adv. |
| Revenue by | Shri M. Baranwal, Sr. D.R. |

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| Date of hearing: | 04.07.2022 |
| Date of Pronouncement: | 04.07.2022 |

ORDER

PER ANIL CHATURVEDI, AM :

This appeal filed by the Revenue is directed against the order dated 11.10.2019 of the Commissioner of Income Tax (Appeals)—31, New Delhi relating to Assessment Year 2005-06.

2. Brief facts of the case as culled out from the material on record are as under:-

3. Assessee is a company which is stated to be engaged in the business of Media – 24 Hours TV News Channels – “Aaj Tak” and “Headlines Today”. Assessee filed its return of income for A.Y.

2005-06 on 31.10.2005 declaring an income of Rs. 21,45,46,410/-. The case was selected for scrutiny and thereafter notices 143(2) and 142(1) were issued and duly served on the assessee. Thereafter, assessment was framed u/s 143(3) of the Act vide order dated 27.12.2007 and the total taxable income was determined at Rs.25,17,86,456/- and Short Term Capital Gain of Rs.1,18,649/- by *inter alia* disallowing Rs.2,40,84,750/-, being new look expenses.

4. On the aforesaid addition of Rs.2,40,84,750/-, AO vide penalty order passed u/s 271(1)(c) of the Act dated 31.03.2017 levied penalty of Rs.81,06,927/- u/s 271(1)(c) of the Act.

5. Aggrieved by the penalty order of AO, assessee carried the matter before CIT(A) who vide order dated 11.10.2019 in Appeal Nos.577/19-20/316/18-19 & 578/19-20/317/18-19 deleted the penalty by observing as under:

“4.1 All the grounds of appeal raised in A.Y. 2005-06 are pertaining to imposition of penalty u/s 271(1)(c) at Rs.81,06,927/- on disallowance of New Look expenses of Rs.2,40,84,750/-. I find that the Hon’ble ITAT vide paras 17 to 25 of the above mentioned order dated 16.08.2019 has deleted the disallowance of expenditure of rs.2,40,484,750/- by treating the same as revenue expenditure and hence no basis now survives for imposition of penalty. Accordingly, the penalty imposed in A.Y. 2005-06 is deleted. Hence appellant succeeds on this account.”

6. Aggrieved by the order of CIT(A), Revenue is now in appeal and has raised the following grounds:

1. “On the facts and circumstances of the case, the Ld CIT(A) erred in deleting the penalty of Rs.81,06,927/- imposed in A.Y. 2005-06 on account of the disallowance of expenditure of

Rs.2,40,84,750/- by treating it as revenue.

2. The appellant craves, leave or reserving the right to amend modify, alter, add, or forgo any ground(s) of appeal at any time before or during the hearing of this appeal.”

7. Before us, at the outset, Learned DR submitted that the only issue raised by the Revenue is with respect to penalty levied by AO u/s 271(1)(c) of the Act and which was deleted by CIT(A). Before us, Learned DR supported the order of AO.

8. On the other hand Learned AR supported the order of CIT(A).

9. We have heard the rival submissions and perused the material available on record. In the present appeal, Revenue is aggrieved by the deletion of levy of penalty of Rs.81,06,927/- u/s 271(1)(c) of the Act on the addition of Rs.2,40,84,750/- that was made by AO. We find that CIT(A) while deleting the penalty at para 4.1 of his order has noted that the addition made by the AO on which the penalty has been levied was deleted by ITAT and since the quantum addition has been deleted, the penalty does not survive. Before us, Revenue has not pointed to any fallacy in the findings of CIT(A) nor has placed any material on record to demonstrate that the aforesaid addition of Rs.2,40,84,750/- which was deleted by ITAT has been set aside by the higher judicial forum. Considering the totality of the aforesaid fact, we find no reason to interfere with the order of CIT(A). **Thus the ground of Revenue is dismissed.**

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

Order pronounced in the open court on 04.07.2022

Sd/-

**(ANUBHAV SHARMA)
JUDICIAL MEMBER**

Sd/-

**(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Date:- 04.07.2022

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Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI