

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “A” BENCH, AHMEDABAD**

**BEFORE SHRI P.M. JAGTAP, VICE PRESIDENT AND  
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA Nos.2997/Ahd/2014 & 2532/Ahd/2016  
Assessment Years: 2008-09 & 2010-11**

The A.C.I.T.,  
Circle-1(2)/Circle-1(1)(2),  
Baroda.

(Appellant)

vs. M/s. Effluent Channel Project Ltd.,  
4<sup>th</sup> Floor, Commerce Centre,  
Sayajigunj, Vadodara – 390 005.  
[PAN – AAACE 8486 B]  
(Respondent)

Appellant by : Shri Vijay Kumar Jaiswal, CIT DR &  
Smt. M.M. Garg, Sr. D.R.  
Respondent by : Shri M.J. Shah, A.R.

Date of hearing : 29.06.2022  
Date of pronouncement : 15.07.2022

**ORDER**

**PER SUCHITRA KAMBLE, JUDICIAL MEMBER :**

These two appeals are filed by the Revenue against two different orders, dated 19.08.2014 & 04.07.2016, passed by the CIT(A)-I, Baroda for the Assessment Years 2008-09 & 2010-11.

2. The grounds of appeal are as under:

**ITA No.2997/Ahd/2014 – Assessment Year 2008-09**

“1. *On the facts and in the circumstances of the case and in law, the Ld. CIT(Appeals) erred in deleting the penalty u/s.271(1)(c) of the Act levied on the addition/disallowance of Rs.82,52,000/- on account of members’ capital contribution, by holding that issue is debatable without appreciating that the said claim made by the assessee was not bonafide.*”

**ITA No.2532/Ahd/2016 – Assessment Year 2010-11**

- “1. The order levying penalty under section 271(1)(c) of the Income Tax Act, 1961 passed by the learned Assessing Officer is bad in law and on facts.
2. The learned Assessing Officer has erred in law and on facts in levying a penalty of Rs.1,35,03,479/- under section 271(1)(c) of the Act for the alleged concealment and/or furnishing of inaccurate particulars of income in respect of considering a Capital Contribution of Rs.4,39,72,266/- received as revenue receipt.

*Thus, Appellate Company craves for the deletion.”*

3. The facts of the case in ITA No.2997/Ahd/2014 for A.Y. 2008-09 are that the assessee filed return of income on 27.09.2008 declaring total income of Rs.2,60,660/-. The assessment order under Section 143(3) of the Income Tax Act, 1961 was passed on 19.10.2010 determining total income of Rs.1,05,57,662/-. The assessment was finalised on the issue of disallowance of the claim of deferred revenue expenditure in respect of capital contribution received from members. The penalty proceedings under Section 271(1)(c) of the Act was initiated by the Assessing Officer thereby imposing penalty of Rs.43,20,156/- for furnishing inaccurate particulars of income and concealment of the income in respect of the additions made by the Assessing Officer towards capital contribution received from the members.

4. Being aggrieved by the penalty order, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. The Ld. AR submitted that the quantum appeal of the assessee being ITA No.1945/Ahd/2011 for A.Y. 2008-09 was decided by the Tribunal on 24.07.2015 thereby allowing the issue towards determining of taxability of receipts received in the said year. The Ld. AR further submitted that the CIT(A) has rightly deleted the penalty on the addition of Rs.23,95,082/- in respect of 4/5<sup>th</sup> of capital contribution of Rs.1,03,15,000/-. The Ld. AR submitted that the penalty does not sustain since the quantum appeal has already been decided by the Tribunal.

6. The Ld. DR relied upon the Assessment Order and the Penalty Order.

7. We have heard both the parties and perused the relevant material available on record. Since the quantum appeal has already been decided by the Tribunal, the

CIT(A) has rightly deleted the penalty on addition of Rs.82,52,000/- being 4/5<sup>th</sup> of the capital contribution and confirmed the penalty on addition of Rs.20,63,000/-. There is no need to interfere with the findings of the CIT(A). Hence, the appeal of the Revenue for A.Y. 2008-09 is dismissed.

8. In respect of ITA No.2532/Ahd/2016 for A.Y. 2010-11, the penalty was imposed in respect of capital contribution which is similar to A.Y. 2008-09 and the quantum was decided by the Tribunal in ITA No.1518/Ahd/2014 vide order dated 27.06.2017. Therefore, the penalty does not sustain. Hence, appeal filed by the Revenue for A.Y. 2010-11 is also dismissed.

9. In the result, both the appeals filed by the Revenue are dismissed.

Order pronounced in the open Court on this 15<sup>th</sup> day of July, 2022.

*Sd/-*  
**(P.M. JAGTAP)**  
Vice President

*Sd/-*  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 15<sup>th</sup> day of July, 2022**

**PBN/\***

*Copies to:* (1) *The appellant*  
(2) *The respondent*  
(3) *CIT*  
(4) *CIT(A)*  
(5) *Departmental Representative*  
(6) *Guard File*

*By order*

*Assistant Registrar*  
*Income Tax Appellate Tribunal*  
*Ahmedabad benches, Ahmedabad*