

**आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'C' BENCH, CHENNAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ ITA No.136/Chny/2022  
(निर्धारण वर्ष / Assessment Year: 2011-12)

DCIT Central Circle-1(1), Chennai.	<b>बनाम</b> / Vs.	M/s. Indus Mobile Distribution Pvt. Ltd. No.281, TTK Road, Alwarpet, Chennai – 600 018.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AABCI-6304-D		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Assessee by	:	Shri Shrenik Chorddia (C.A) – Ld. AR
प्रत्यर्थी की ओरसे/Revenue by	:	Shri P. Sajit Kumar (JCIT)-Ld. DR
सुनवाई की तारीख/Date of Hearing	:	19-07-2022
घोषणा की तारीख /Date of Pronouncement	:	19-07-2022

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by Revenue for Assessment Year (AY) 2011-12 arises out of the order of learned Commissioner of Income Tax (Appeals)-18, Chennai [CIT(A)] dated 27.12.2021 deleting penalty of Rs.180 Lacs as levied by Ld. AO vide penalty order dated 30.03.2019. The grounds taken by the Revenue are as under:

1. The order of the Id. Commissioner of IT. (Appeals) is erroneous on facts of the case and in law.
- 2.1. The Id. CIT(A) erred in directing the assessing officer to delete the penalty levied u/s.271(1)(c) of Rs.1.80 crores, on the ground that the quantum additions

relating to the levy of penalty has been deleted and the penalty has no legs to stand.

2.2. It is submitted that appeal is being preferred before the Hon'ble Madras High Court against the Hon'ble Chennai ITATs order in ITA No.915/Chny/2019 dated 16.09.2021, wherein, the quantum additions relating to levy of penalty u/s. 271(1)(c) were deleted.

3. For these grounds and any other ground including amendment of grounds that may be raised during the course of the appeal proceedings, the order of Id. CIT(A) may be set aside and that of the Assessing Officer be restored.

2. During the course of hearing, it emerges that the quantum additions against which penalty has been levied, has been deleted by Tribunal and taking note of the same, Ld. CIT(A) has deleted the impugned penalty. The Ld. Sr. DR submitted that the revenue is in further appeal before Hon'ble High Court of Madras against the quantum order of the Tribunal.

3. We find that the assessee was saddled with various auditions aggregating to Rs.500.98 Lacs on account of depreciation, advertisement and professional fees. The same has already been enumerated in opening paragraph of penalty order dated 30.03.2019. The Ld. AO levied impugned penalty of Rs.180 Lacs since the quantum additions were confirmed in the first appellate order. However, during appellate penalty proceedings, it transpired that the penalty stood deleted by Tribunal vide ITA No.915/Chny/2019 order dated 16.09.2021. Accordingly, it was held by Ld. CIT(A) that the penalty would have no legs to stand and penalty has become infructuous. Thus the impugned penalty was deleted. It was further held that in case any further appellate forum reverses the decision on quantum, it was open for AO to take action on penalty as per Sec. 275(1A) of the Act. Aggrieved, the revenue is in further appeal before us.

4. Before us, the position as noted by Ld. CIT(A) in the impugned order remain undisturbed. The Tribunal order deleting quantum addition still stand. Therefore, we do not find any reason to interfere in the impugned order.

5. The appeal stand dismissed.

Order pronounced on 19<sup>th</sup> July, 2022.

**Sd/-**  
**(MAHAVIR SINGH)**  
**उपाध्यक्ष / VICE PRESIDENT**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
**लेखा सदस्य / ACCOUNTANT MEMBER**

चेन्नई / Chennai; दिनांक / Dated : 19-07-2022  
EDN/-

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF