

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

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.3795/DEL/2019
[Assessment Year: 2010-11]**

BKG Infratech Pvt. Ltd. (Amalgamated Company of Nova Infrastructure Pvt. Ltd.) A-35, Brij Greens, Satbari Main Gadaipur Road, Mehrauli, New Delhi-110074	Vs	DCIT, Room No.-35, Jhandewalan Extn. New Delhi-110055
PAN-AAJCS0136R		
Assessee		Revenue

Assessee by	None
Revenue by	Sh. Kanv Bali, Sr. DR

Date of Hearing	24.11.2022
Date of Pronouncement	06.12.2022

ORDER

PER SHAMIM YAHYA, AM,

This appeal by the assessee is directed against the order of Id. CIT (Appeals)-23, New Delhi, dated 28.02.2019 for the Assessment Year 2010-11.

2. The issue raised is against the levy of penalty of Rs.1,93,608/- u/s 271(1)(c) of the Act.

3. At the outset, in this case, the Ld. Counsel for the assessee submitted that the quantum appeal in this case was decided by the Tribunal vide ITA No.5364/Del/2014 for Assessment Year 2010-11 vide order dated 30.09.2021 and the addition was deleted by ITAT. Hence, he pleaded that when entire addition stands deleted, the penalty levied with

respect to the same, addition does not survive. The Ld. Counsel for the assessee produced before us the copy of the order of the Tribunal.

4. The Ld. DR could not dispute proposition canvassed by the Ld. counsel for the assessee.

5. Accordingly, in the background of the fact that in quantum appeal, the addition has been deleted by ITAT, the penalty levied in this case does not survive, hence, we set-aside the orders of the authorities below and delete the levy of penalty.

6. In the result, the appeal of the assessee stands allowed.

Order pronounced in the open court on 06th December, 2022.

Sd/-
[ANUBHAV SHARMA]
JUDICIAL MEMBER

Delhi; Dated: 06.12.2022.

Shekhar

Sd/-
[SHAMIM YAHYA]
ACCOUNTANT MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi