

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C" DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.4888/DEL/2018
Assessment Year 2006-07

Kurele Pan Products (P) Ltd., C-17C, Top Floor, Mandawali, New Delhi.	Vs.	ACIT, Central Circle-32, New Delhi.
TAN/PAN: AACCK0043J		
(Appellant)		(Respondent)

Appellant by:	Shri Dharmendra Singh, Adv.		
Respondent by:	Smt. Abha Rani Singh, CIT (DR)		
Date of hearing:	14	12	2022
Date of pronouncement:	14	12	2022

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed at the instance of the Assessee against the order of the Commissioner of Income Tax (Appeals)-XXX, New Delhi ['CIT(A)' in short] dated 26.02.2018 arising from the assessment order dated 08.02.2013 passed by the Assessing Officer (AO) under Section 153A r.w. Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2006-07.

2. The assessee by way of its grounds of appeal has challenged the action of the CIT(A) sustaining the penalty amounting to Rs.45,36,000/- on the additions amounting to Rs.1,50,00,000/- towards unexplained share application money.

3. When the matter was called for hearing, the ld. counsel for the assessee submitted that the quantum addition giving rise to imposition of penalty has been reversed by the Co-ordinate Bench

of Tribunal in quantum proceedings vide order dated 29.03.2019 in ITA No.3051/Del/2019 (correct ITA 3051/Del/2013) for Assessment Year 2015-16 (correct AY 2006-07). Vide letter dated 14th December, 2022, it was also simultaneously clarified by the ld. counsel for the assessee that the abovementioned 'quantum appeal and Assessment Year' concerning Assessment Year 2015-16 was may be read as 'ITA No.3051/Del/2013 Assessment Year 2006-07' instead of Assessment Year 2015-16.

4. In view of the fact that quantum additions/disallowances itself does not survive and has ceased to exist, the very basis for impositions of penalty under Section 271(1)(c) does not survive any more. Consequently, the impugned order of the CIT(A) is set aside and the penalty imposed by the Assessing Officer stands cancelled in tandem with the quantum proceedings.

5. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 14/12/2022.

Sd/-

**[KUL BHARAT]
JUDICIAL MEMBER**

DATED: **14/12/2022**

Prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**