

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.1462 & 1463/Del/2020

Assessment Year: 2008-09

<b>MM Buildcon (P) Ltd Flat No.4, RR Apartments 3-4 Manglapuri PAN No. AAECM0924E (APPELLANT)</b>	<b>Vs</b>	<b>DCIT Central Circle -14 New Delhi (RESPONDENT)</b>
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ITA No.1433/Del/2020

Assessment Year: 2008-09

<b>DCIT Central Circle -14 New Delhi (APPELLANT)</b>	<b>Vs</b>	<b>MM Buildcon (P) Ltd Flat No.4, RR Apartments 3-4 Manglapuri PAN No. AAECM0924E (RESPONDENT)</b>
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Appellant by	Ms Monika Agarwal, Advocate
Respondent by	Ms. Sarita Kumari, CIT DR

Date of hearing:	20/04/2023
Date of Pronouncement:	24/04/2023

**ORDER**

**PER N. K. BILLAIYA, AM:**

ITA No.1462/Del/2020 is the appeal by the assessee preferred against the order of the CIT(A)-26, New Delhi dated 30.01.2020 pertaining to A.Y.2008-09 against the levy of penalty u/s. 271(1)(c) of the Act.

2. ITA No.1463/Del/2020 is the appeal by the assessee preferred against the order of the CIT(A)-26, New Delhi dated 30.01.2020 pertaining to A.Y.2008-09 against the levy of penalty u/s. 271AAA of the Act and ITA No.1433/Del/2020 is the appeal by the revenue preferred against the order of the CIT(A)-26, New Delhi dated 30.01.2020 pertaining to A.Y.2008-09 against the reduction of penalty levied u/s. 271(1)(c) of the Act from 300% to 250% of the Act.

3. At the very outset the Counsel for the assessee drew our attention to the decision of this Tribunal in a bunch of 111 appeals and pointed that the entire assessments basis which the impugned penalties have been levied has been annulled by the Tribunal by the consolidated order dated 08.02.2023. The Counsel supplied the copy of the decision of Tribunal.

4. The DR could not bring any distinguishing decision in favour of the revenue.

5. We have carefully perused the orders of the authorities below. We find force in the contention of the Counsel. The coordinate Bench while deciding the bunch of 111 appeals has considered the appeal of the captioned assessee at Sr. No.14 and at para-39 of its order held as under :-

*“39. Considering the facts from all possible angles, we have no hesitation to hold that the approval granted by the Addl.*

*CIT is mechanical and without application of mind and the assessment order so framed pursuant to such approval u/s.143(3) r.w.s. 153A of the Act is bad in law and deserves to be annulled.”*

6. Since foundation has been removed the super structure must fall. The AO is accordingly directed to delete the impugned penalty.

7. In the result the appeal of the assessee are allowed and that of the revenue is dismissed.

Order pronounced in the open court on 24.04.2023.

SD/-

**[ANUBHAV SHARMA]  
JUDICIAL MEMBER**

Dated: .04.2023

\*Neha\*

Copy forwarded to:

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

SD/-

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Asst. Registrar  
ITAT, New Delhi