

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

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
MS. ASTHA CHANDRA, JUDICIAL MEMBER

ITA No. 8920/DEL/2019 [A.Y. 2012-13]

The A.C.I.T  
Circle, Karnal

PAN: AAHFM 3503 D

(Applicant)

Vs. Mehta Construction  
Company, 108, Sector - 14,  
U. E. Karnal, Karnal, Haryana

(Respondent)

Assessee By : --None--  
Department By : Shri M. K. Pandey, Sr. DR

Date of Hearing : 06.07.2023  
Date of Pronouncement : 10.07.2023

**ORDER**

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-

This appeal by the Revenue is preferred against the order dated 02.09.2019 by the CIT(A), Karnal pertaining to Assessment Year 2012-13.

2. The solitary grievance of the Revenue is that the Id. CIT(A) erred in deleting the penalty of Rs. 2,10,33,606/- levied by the Assessing Officer u/s 271(1)(c) of the Income-tax Act, 1961 [the Act, for short].

3. None appeared on behalf of the assessee in spite of several notices. We decided to proceed exparte.

4. The roots for levy of penalty lie in the assessment order dated 04.03.2015 framed u/s 143(3) of the Act wherein the returned income of the assessee at Rs. 93,47,710/- was assessed at Rs. 3,23,77,640/- after making addition of Rs. 2,10,33,606/- and Rs. 19,96,324/-.

5. Addition on account of low profit travelled upto the Tribunal and the Tribunal vide order dated 23.10.2018 in ITA No. 6724/DEL/2016 has deleted the addition on account of low profit which means that penalty to the extent of addition of Rs. 2,10,33,606/- does not hold any water and has no legs to stand. To this extent penalty stands deleted. However, the Assessing Officer is directed to decide the levy of penalty on the balance amount of Rs. 19,96,324/- after affording reasonable opportunity of being heard to the assessee.

6. In the result, the appeal of the Revenue in ITA No. 8920/DEL/2019 is party allowed.

The order is pronounced in the open court on 10.07.2023.

Sd/-

**[ASTHA CHANDRA]  
JUDICIAL MEMBER**

Sd/-

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

Dated: 10<sup>th</sup> JULY, 2023.

VL/

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
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Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	