

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. YOGESH KUMAR US, JUDICIAL MEMBER**

ITA No.1411/Del/2018
Assessment Year: 2011-12

The Oriental Insurance Co. Ltd. A-25/27, Asaf Ali Road, New Delhi PAN No.AAACT0627R	Vs	DCIT, Circle-1 LTU, New Delhi
(APPELLANT)		(RESPONDENT)

ITA No.1749/Del/2018
Assessment Year: 2011-12

DCIT, Circle-1 LTU, New Delhi	Vs.	The Oriental Insurance Co. Ltd. A-25/27, Asaf Ali Road, New Delhi PAN No.AAACT0627R
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Tarandeep Singh, Advocate
Respondent by	Sh. T. James Singson, CIT DR

Date of hearing:	10/08/2023
Date of Pronouncement:	16/08/2023

ORDER

PER N. K. BILLAIYA, AM:

ITA No.1411/Del/2018 and 1749/Del/2018 are cross appeals by the assessee and the revenue preferred against the

order of the CIT(A)-22, New Delhi dated 29.12.2017 pertaining to A.Y.2011-12.

2. Both these appeals were heard together and are disposed of by this common order for the sake of convenience and brevity. The common grievance in both these appeals relates to the levy of penalty u/s.271 (1)(c) of the Act.

3. The roots for the levy of penalty lie in the assessment order dated 13.01.2014 framed u/s.143(3) of the Act wherein the following additions were made :-

S.No.	Particulars	Amount (in Rs.)
1	Profit on sale of investment	10,27,94,88,259/-
2	Interest income not provided as income	80,52,21,000/-
3	Disallowance of depreciation u/s. 32	1,04,90,324/-
4	Disallowance u/s. 14A	49,84,91,810/-
5.	Disallowance of guest house expenses	47,43,236/-
6	Provision for standard assets	2,94,82,474/-

4. Penalty proceedings were separately initiated and penalty were levied accordingly on the additions sustained.

5. Before us the Counsel for the assessee stated that all the quantum additions have been deleted by this Tribunal, therefore, the penalty does not have any legs to stand. The DR fairly conceded to this.

6. We have carefully perused the orders of the authorities below. We find force in the contention of the Counsel. This Tribunal in ITA No.200/Del/2016 order dated 22.11.2022 had the occasion to consider the quarrel relating to the quantum additions. A careful perusal of the order of the Tribunal shows that the quantum additions have been deleted. However, we find that the issue relating to the disallowance of depreciation has been set aside to the files of the AO, therefore, to this extent the AO is directed to decide the issue of levy of penalty after deciding the quantum.

7. Since all other additions have been deleted we do not find any merit in the levy of penalty u/s. 271 (1) (c) of the Act.

8. In the result, the appeal of the revenue is dismissed and that of the assessee is allowed.

Order pronounced in the open court on 16.08.2023.

Sd/-
[YOGESH KUMAR US]
JUDICIAL MEMBER

Sd/-
[N.K. BILLAIYA]
ACCOUNTANT MEMBER

Dated: .08.2023
Neha