

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'H': NEW DELHI
BEFORE,
SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.835/Del/2020
(ASSESSMENT YEAR 2011-12)**

**ITA No.904/Del/2020
(ASSESSMENT YEAR 2007-08)**

Asst. CIT Circle-27(1) New Delhi	Vs.	M/s UK Paints India Pvt. Ltd. D-19, Kalka Ji New Delhi-110019 PAN-AAACU 0057C
(Appellant)		(Respondent)

Assessee by	Mr. R.K. Kapoor, CA
Department by	Ms. Meenakshi J. Goswami, CIT- DR

Date of Hearing	31/07/2023
Date of Pronouncement	17/08/2023

ORDER

PER M. BALAGANESH AM:

Both the appeals filed by Revenue arises out of the common order of the Learned Commissioner of Income Tax (Appeals)-28, New Delhi, [hereinafter referred to as 'Ld. CIT(A)'] in Appeal Nos.31/18-19/1059, 30/18-19/1058, 32/18-19/1060 dated 15/10/2019 against the penalty order passed by Assistant

Commissioner of Income Tax, Circle-27(1), New Delhi (hereinafter referred to as the 'Ld. AO') u/s 271(1)(c) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on 29/03/2018.

2. The common grounds raised by the Revenue in both appeals except variance of figures.

“1. Whether on facts and circumstances of the case, the Ld. CIT(A) has erred in deleting the penalty of Rs.81,03,423/- levied u/s 271(1)(c) of the Income Tax Act, 1961.”

2. Whether on the facts and circumstances of the case, the CIT(A) has erred in holding that the penalty u/s 271(1)(c) is not leviable, if correct limb has not been marked in the notice, even though it is not a statutory notice.”

3. Whether on the facts and circumstances of the case, the CIT(A) has erred in holding that AO cannot levy penalty on the quantum recalculated by the Ld. CIT(A), even though the issue is same and the Ld.CIT(A) has upheld the merit of addition.

3. The appellant craves, leave or reserving the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal.”

3. The identical issues are involved in both the appeals, hence, they are taken up together and disposed off by this common order for the sake of convenience.

4. The only identical issue to be decided in this appeal is as to whether the Ld. CIT(A) was justified in deleting the penalty levied

u/s 271(1)(c) of the act in the facts and circumstances of the instant case.

5. At the outset, both the parties agreed that the quantum addition for which penalty has been levied, has been deleted by the order of this Tribunal for Asst. Years 2007-08 to 2013-14 vide its order dated 20.04.2020. We have gone through the quantum appellate order and we find that the Tribunal had elaborately dealt with all the grounds and had ultimately concluded that all the appeals of the assessee are allowed, all the cross objections of the assessee are allowed for statistical purposes and all the appeals of the Revenue are dismissed. Since, the quantum additions were deleted, the concealment of penalty u/s 271(1)(c) of the Act would have no legs to stand. Hence, the penalty for both the years are hereby direct to be deleted.

5. In the result, both the appeals of the Revenue are dismissed.

Order pronounced in the open court on 17th August, 2023.

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 17/08/2023
Pk/sps

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI