

IN THE INCOME TAX APPELLATE TRIBUNAL  
[ DELHI BENCH "S.M.C." : DELHI ]

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

आ.अ.सं./I.T.A No. 2316/Del/2023  
निर्धारणवर्ष /Assessment Year: 2017-18

Coils & Transformer India Private Limited, N-76, Kirti Nagar, New Delhi - 110 015.	बनाम Vs.	ACIT, Circle : 4 (2), New Delhi.
PAN No. AACCC8305R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारितकीओरसे /Assessee by :	Shri J. S. Kochar, C. A.;
राजस्वकीओरसे / Department by :	Shri Om Parkash, Sr. D. R.;

सुनवाईकीतारीख/ Date of hearing :	04/10/2023
उद्घोषणाकीतारीख/Pronouncement on :	11/10/2023

आदेश / ORDER

PER C. N. PRASAD, J. M. :

1. This appeal is filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals) [hereinafter referred

to CIT (Appeals)]/National Faceless Appeal Centre [NFAC] Delhi, dated 21.06.2023 for assessment year 2017-18.

2. The ld. Counsel for the assessee, at the outset, submits that this appeal is filed against the penalty order passed under section 270A of the Income Tax Act, 1961 (the Act) and the quantum appeal is still pending before the ld. CIT (Appeals). The Ld. Counsel for the assessee submits that the decision in quantum appeal has a barring on the penalty levied by the Assessing Officer and the ld. CIT (Appeals) should have disposed of the quantum appeal first instead of penalty appeal. The Ld. Counsel for the assessee further submits that the penalty order is void ab initio having been passed pursuant to show cause notice dated 25.12.2019 which in fact was never issued and is sine qua non for passing the penalty order. The Ld. Counsel submits that this legal ground has been taken for the first time before the Tribunal.

3. The ld. DR has no serious objection in restoring this appeal to the ld. CIT (Appeals) for deciding along with the quantum appeal.

4. On hearing both the sides I am of the view that this appeal should go back to the ld. CIT (Appeals) and the ld. CIT (Appeals) shall decide both the quantum appeal as well as the penalty appeal together as the decision in quantum appeal has a barring on the appeal filed by the assessee against the penalty levied under section 270A of the Act. Thus, this appeal is restored to the file of the ld. CIT (Appeals) and the same shall be disposed of along with

the quantum appeal after providing adequate opportunity of being heard to the assessee.

5. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on : 11/10/2023.

Sd/-  
( C. N. PRASAD )  
JUDICIAL MEMBER

Dated : 11/10/2023.

*\*MEHTA\**

Copy forwarded to :-

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

ASSISTANT REGISTRAR  
ITAT, New Delhi.

Date of dictation	05.10.2023
Date on which the typed draft is placed before the dictating member	06.10.2023
Date on which the typed draft is placed before the other member	11.10.2023
Date on which the approved draft comes to the Sr. PS/ PS	11.10.2023
Date on which the fair order is placed before the dictating member for pronouncement	11.10.2023

Date on which the fair order comes back to the Sr. PS/ PS	11.10.2023
Date on which the final order is uploaded on the website	11.10.2023
Date on which the file goes to the Bench Clerk	11.10.2023
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	