

IN THE INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "B" : DELHI]

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER

आ.अ.सं./I.T.A No.4043/Del/2016
निर्धारणवर्ष/Assessment Year: 2007-08

M/s. Cement Corporation of India Ltd., Core-5, Scope Complex, 7 - Lodhi Road, New Delhi - 110 003.	<u>बनाम</u> Vs.	DCIT, Circle : 5 (2), New Delhi.
PAN No. AAACC0949B		
अपीलार्थी /Appellant		प्रत्यर्थी/Respondent

निर्धारितकीओरसे /Assessee by :	Shri Ajay Wadhwa, Adv.; & Ms. Ragini Handa, Adv.
राजस्वकीओरसे / Department by :	Shri T. James Singson, [CIT] - D. R.;

सुनवाईकीतारीख/ Date of hearing :	23/08/2023
उद्घोषणाकीतारीख/Pronouncement on :	17/10/2023

आदेश /O R D E R

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)-2 [hereinafter referred to

CIT (Appeals)] New Delhi, dated 31.03.2016 for assessment year 2007-08 in confirming the penalty levied under section 271(1)(c) of the Income Tax Act, 1961 (the Act).

2. The Id. Counsel for the assessee, at the outset, submits that the quantum addition/disallowance made by the Assessing Officer while completing the assessment has been set aside and restored back to the file of the Assessing Officer by the Tribunal by order dated 23.12.2016 in ITA. No. 1645/Del/2013 and, therefore, since the quantum addition/disallowance has been restored to the file of the Assessing Officer the penalty levied by the Assessing Officer based on such addition/disallowance has no legs to stand.

3. On hearing the rival submissions and perusing the order of the Tribunal, we notice that the quantum addition/disallowance made in the assessment order for the assessment year 2007-08 has been restored to the file of the Assessing Officer. In the circumstances the penalty levied based on the addition/disallowance made in the assessment order will not survive. Hence, the penalty order passed under section 271(1)(c) is set aside and grounds of appeal of the assessee is allowed.

4. In the result appeal of the assessee is allowed.

Order pronounced in the open court on : 17/10/2023.

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

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

Dated : 17/10/2023.

MEHTA

Copy forwarded to :-

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

ASSISTANT REGISTRAR
ITAT, New Delhi.

Date of dictation	11.10.2023
Date on which the typed draft is placed before the dictating member	12.10.2023
Date on which the typed draft is placed before the other member	17.10.2023
Date on which the approved draft comes to the Sr. PS/ PS	17.10.2023
Date on which the fair order is placed before the dictating member for pronouncement	17.10.2023
Date on which the fair order comes back to the Sr. PS/ PS	17.10.2023
Date on which the final order is uploaded on the website	17.10.2023
Date on which the file goes to the Bench Clerk	17.10.2023
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	