INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI

BEFORE
SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

ITA Nos. 2951, 2952, 2953, 2954, 2955, 2956/Del/2022

Asstt. Years: 2007-08, 2008-09, 2009-10, 2010-11, 2012-13, 2013-14

Sad Bhawna, 2-D MIG, DDA Flats, Gulabi Bagh, Delhi – 110 007 PAN AADTS4076K	Vs.	DCIT, Central Circle-6, New Delhi.
(Appellant)		(Respondent)

ITA Nos. 2945, 2946, 2947, 2948, 2949, 2950/Del/2022

Asstt. Years: 2007-08, 2008-09, 2009-10, 2010-11, 2012-13, 2013-14

Sad Bhawna, 2-D MIG, DDA Flats, Gulabi Bagh, Delhi – 110 007 PAN AADTS4076K	Vs.	DCIT, Central Circle-6, New Delhi.
(Appellant)		(Respondent)

Assessee by:	Dr. Rakesh Gupta, Advocate Shri Deepesh Garg, Advocate
Department by:	Shri H.K. Choudhary, CIT-DR
Date of Hearing:	23.11.2023
Date of pronouncement:	12.12.2023

O R D E R

PER BENCH

The six quantum appeals in ITA Nos. 2951, 2952, 2953, 2954, 2955, 2956/Del/2022 and six penalty appeals in ITA Nos. 2945, 2946, 2947, 2948, 2949, 2950/Del/2022 arise out of separate orders dated 28.11.22 and 29.11.22 respectively of the Ld. Commissioner of Income Tax (Appeals)-24, New Delhi

("CIT(A)") pertaining to Assessment Years **("AYs")** 2007-08, 2008-09, 2009-10, 2010-11, 2012-13 and 2013-14. Since the issues involved are common in both quantum and penalty appeals, these were heard together and are being disposed of by this common order.

<u>Quantum Appeals - ITA Nos. 2951, 2952, 2953, 2954, 2955, 2956/Del/2022</u>

2. The assessee has raised the common grounds of appeal in all the six quantum appeals (except the amount of impugned addition which varies in each of the AYs). We reproduce below the grounds raised by the assessee in AY 2007-08 in ITA No. 2951/Del/2022 for reference purposes:

"1. That having regard to the facts and circumstances of the ease. Ld CITCA) has erred in law and on facts in not reversing the action of Lal. AO in not following the direction of Hon'ble Tribunal vide order dated 19-12-2018 & thus Ld. CIT(A) ought to have quashed the impugned order passed by the assessing officer on this ground.

2. That having regard to the facts and circumstances of the case. Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in framing the impugned assessment order u/s 254/153C/144 without assuming jurisdiction us per law and without recording requisite satisfaction as per law and without complying with the other mandatory conditions as envisaged under the Act.

3. That in any case and in any view of the matter, action of Id CITIA) confirming the action of Ld. AO in framing the impugned assessment order u 254/153C/143(3), is bad in law and against the facts and circumstances of the case, more so when no incriminating material was found as a result of search.

4. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making disallowance of Rs.2,15,941/- being the expenses claimed by the assessee and that too by recording incorrect facts and findings, more so when no incriminating material has been found as a result of search and impugned disallowance has been made by recording incorrect facts and findings and without observing the principles of natural justice.

5. That in any case and in any view of the matter, action of td CIT(A) in confirming the action of Ld. AO in passing the impugned assessment order dated 31-12-2019 and impugned disallowance made therein is illegal, bad in law, void ab-initio and against the facts and

circumstances of the case and in gross violation of principles of natural justice and barred by limitation also

6. *That in any case and without prejudice to the above grounds, disallowance made in the impugned order are beyond jurisdiction and illegal also for the reason that the same could not have been made since no incriminating material has been found as a result of search warranting impugned disallowance."*

3. The assessee filed an application dated 21.11.2023 seeking permission to raise the following additional grounds in all the six quantum appeals:

"1. That having regard to the facts and circumstances of the case, the action of Ld. AO in passing the impugned assessment orders dated 31.12.2019 is illegal, bad in law, inter alia for the reason that the said assessment orders have been passed without DIN number as is must as held in the judgements of ***CIT (International Taxation) vs. Brandis Mauritius Holdings Ltd.,*** *ITA No. 163/2023, dated 20.03.2023 (Del),* ***PCTT(E) vs. M/s Tata Medical Centre Trust****. ITAT/202/2023, dated 26.09.2023 (Cal) and* ***Ashok Commercial Enterprises vs. Asstt. CIT,*** *WP No. 2595 of 2021, dated 04.09.2023 (Bom) and* ***CBDT Circular No.*** *19/2019 dated 14.08.2019.*

2. That in any case and in any view of the matter, the passing of impugned assessment orders dated 31.12.2019 is illegal, bad in law and the same is not sustainable on various legal and factual grounds.

Since the above grounds of appeal are purely legal, do not require fresh facts to be investigated and go to the root of the matter, it is prayed that the same may please be admitted..."

3.1 In support of the admittance of the above additional grounds, the assessee placed reliance on the following decisions:

i) CIT vs. Sinhgad Technical Education Society (2017) 397 ITR 344 (SC).

ii) National Thermal Power Co. Ltd. vs. CIT (1998) 229 ITR 383 (SC).

iii) VMT Spinning Co. Ltd. vs. CIT & Annr. (2016) 389 ITR 326 (P&H).

iv) CIT vs. Sam Global Securities (2014) 360 ITR 682 (Delhi).

v) Siksha vs. CIT, (2011) 336 ITR 0112 (Orissa).

vi) Inventors Industrial Corporation Ltd. vs. CIT (1992) 194 ITR 548 (Bom.).

4. We have heard the Ld. Representative of the parties. The additional ground raised by the assessee is purely legal and jurisdictional issue going to the root of the matter. In National Thermal Power Co. Ltd. (supra), the Hon'ble Supreme Court observed that the Tribunal should not be prevented from considering questions of law arising in assessment proceedings. Where the Tribunal is only required to consider the question of law arising from the facts which are on record in the assessment proceedings there is no reason why such a question should not be allowed to be raised when it is necessary to consider that question in order to correctly assess the tax liability of an assessee. We, therefore following the decision (supra) of the Hon'ble Apex Court admitted the additional ground and proceed to consider the same.

5. The Ld. AR invited our attention to the separate orders of the Ld. AO all dated 31.12.2019 for AY 2007-08, 2008-09, 2009-10, 2010-11, 2012-13 and 2013-14 passed under section 254/153C/144 of the Income Tax Act, 1961 **(the "Act")** which were the subject matter of appeal before the Ld. CIT(A). He pointed out that it will be observed that there is no mention of Document Identification Number **("DIN")** in the body of the assessment order(s). He further submitted that perusal of the order(s) would also reveal that there is no mention of any reason for non-issuance of DIN. The requisite condition mentioned in para 3 of the CBDT Circular No. 19/2019 dated 14.08.2019 has also not been complied with. He contended that this is in violation of the binding CBDT Circular No. 19/2019. As a consequence, the impugned orders of the Ld. AO are invalid and 'non-est' in the eye of law and deserve to be quashed. He also relied upon a number of judicial precedents wherein the courts/authorities have decided the impugned issue in favour of the assessee. He, therefore, vehemently argued that in the light of the facts and circumstances of the assessee's case, the orders passed by the Ld. AO be held as invalid and 'non-est'.

7. The Ld. CIT-DR submitted that the DIN was generated simultaneously on 31.12.2019 which is same as the date of the assessment order(s). Each

assessment order is accompanied by a covering letter in which the DIN for the order is mentioned and the covering letter is of the same date on which assessment order is framed. Therefore an inference may be drawn that the assessment order contained the DIN.

8. We have considered the submissions of the parties and perused the records. On perusal of the impugned order(s) dated 31.12.2019 of the Ld. AO on record, we observe that the assessment order(s) were accompanied by a covering letter dated 31.12.2019. The covering letter only contains the DIN and letter no. for the said letter and do not mention the DIN for the assessment order(s). Even otherwise, mention of DIN is conspicuous by its absence in the body of the assessment order(s). We therefore do not find any substance in the arguments of the Ld. CIT DR.

9. We have also gone through the CBDT Circular No. 19/2019 dated 14.08.2019, which reads as under:-

Circular No. 19 /2019

Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, dated the 14th of August, 2019

Subject: Generation/Allotment/Quoting of Document Identification Number in Notice/Order/Summons/letter/correspondence issued by the Income-tax Department - reg.

With the launch of various e-governance initiatives, Income-tax Department is moving toward total computerization of its work. This has led to a significant improvement in delivery of services and has also brought greater transparency in the functioning of the tax-administration. Presently, almost all notices and orders are being generated electronically on the Income Tax Business Application (ITBA) platform. However, it has been brought to the notice of the Central Board of Direct Taxes (the Board) that there have been some instances in which the notice, order, summons, letter and any correspondence (hereinafter referred to as "communication") were found to have been issued manually, without maintaining a proper audit trail of such communication.

2. In order to prevent such instances and to maintain proper audit trail of all communication, the Board in exercise of power under section 119 of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), has decided that no communication shall be issued by any income-tax authority relating to assessment, appeals, orders, statutory or otherwise, exemptions, enquiry, investigation, verification of information, penalty, prosecution, rectification, approval etc. to the assessee or any other person, on or after the 1st day of October, 2019 unless a computer-generated Document Identification Number (DIN) has been allotted and is duly quoted in the body of such communication.

3. In exceptional circumstances such as, –

(i) when there are technical difficulties in generating/allotting/quoting the DIN and issuance of communication electronically; or

(ii) when communication regarding enquiry, verification etc. is required to be issued by an income-tax authority, who is outside the office, for discharging his official duties; or

(iii) when due to delay in PAN migration, PAN is lying with non-jurisdictional Assessing Officer; or

(iv) when PAN of assessee is not available and where a proceeding under the Act (other than verification under section 131 or section 133 of the Act) is sought to be initiated; or

(v) When the functionality to issue communication is not available in the system,

the communication may be issued manually but only after recording reasons in writing in the file and with prior written approval of the Chief Commissioner / Director General of income-tax. In cases where manual communication is required to be issued due to delay in PAN migration, the proposal seeking approval for issuance of manual communication shall include the reason for delay in PAN migration. The communication issued under aforesaid circumstances shall state the fact that the communication is issued manually without a DIN and the date of obtaining of the written approval of the Chief Commissioner / Director General of Income-Tax for issue of manual communication in the following format-

" .. This communication issues manually without a DIN on account of reason/reasons given in para 3(i)/3(ii)/3(iii)/3(iv)/3(v) of the CBDT Circular No ...dated ..... (strike off those which are not applicable) and with the approval of the Chief Commissioner / Director General of Income Tax vide number .... dated .... "

4. Any communication which is not in conformity with Para-2 and Para-3 above, shall be treated as invalid and shall be deemed to have never been issued.

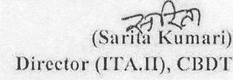
5. The communication issued manually in the three situations specified in para 3- (i), (ii) or (iii) above shall have to be regularised within 15 working days of its issuance, by –

i. uploading the manual communication on the System.
ii. compulsorily generating the DIN on the System;
iii. communicating the DIN so generated to the assessee/any other person as per electronically generated pro-forma available on the System.

6. An intimation of issuance of manual communication for the reasons mentioned in para 3(v) shall be sent to the Principal Director General of Income-tax (Systems) within seven days from the date of its issuance.

7. Further, in all pending assessment proceedings, where notices were issued manually, prior to issuance of this Circular, the income-tax authorities shall identify such cases and shall upload the notices in these cases on the Systems by 31th October, 2019.

8. Hindi version to follow.



(Sarita Kumari)
Director (ITA.II), CBDT

(F.No. 225/95/2019-ITA.II)

Copy to:-

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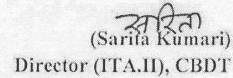
ii. PS to Secretary (Revenue)
iii. Chairman, CBDT & All Members, CBDT
iv. All Pr.CCsIT/ Pr.DsGIT
v. All Joint Secretaries/CsIT, CBDT
vi. C&AG
vii. CIT (M&TP), Official Spokesperson of CBDT
viii. O/o Pr. DGIT(Systems) for uploading on official website
ix. Addl.CIT (Database Cell) for uploading on the departmental website



(Sarita Kumari)
Director (ITA.II), CBDT

10. In para 2 thereof it is stated that in order to prevent instances (narrated in the opening para) and to maintain audit trail of all communication, no communication shall be issued by any Income Tax Authority to the assessee or any other person on or after the 1st day of October, 2019 unless a computer generated DIN has been allotted and is duly quoted in the body of such communication. In the present case at hand, undoubtedly, the impugned assessment order(s) are one such communication which has been issued by the Ld. AO without allotting a computer generated DIN and duly quoting in the body of the impugned assessment order(s). The assessment order(s) were only accompanied by a covering letter dated 31.12.2019 which contained the DIN and letter no. for the said letter. There is thus clear violation of the specific requirement under the CBDT Circular No. 19/2019 to quote the DIN in the body of the impugned assessment order(s).

11. Para 3(i),(ii),(iii),(iv) and (v) of the Circular No. 19/2019 enumerate the exceptional circumstances in which the Income Tax Authority may issue the communication manually but only after recording reasons in writing in the file and with the prior written approval of Chief Commissioner/Director General of Income Tax. The communication issued manually in situations specified in para 3 (i), (ii) or (iii) of the Circular, the Income Tax Authority is required to take steps to regularise the failure to quote DIN within fifteen (15) working days of its issuance in the manner laid down in para 5 of the said Circular, namely by –

(i) Uploading the manual communication on the system
(ii) Compulsorily generating the DIN on the system
(iii) Communicating the DIN so generated to the assessee as per electronically generated proforma available on the system.

12. Para 4 of the Circular says in unequivocal terms that any communication which is not in conformity with para 2 and para 3 shall be treated as invalid and shall be deemed to have never been issued.

13. The case of the assessee is that the communication, namely, the assessment order(s) dated 31.12.2019 for AYs are not only without mention of DIN in the body of the order, there is no material on the record mentioning the reason for non-issuance of DIN. There is thus violation of the mandate enshrined in para 2 and para 3 of the CBDT Circular No. 19/2019 dated 14.08.2019. Therefore, the consequence mentioned in para 4 of the said Circular, namely that the impugned assessment order(s) dated 31.12.2019 be treated as invalid and non-est in the eye of law should follow. We are in agreement with the above contentions of the assessee. In taking this view we are supported by the ratio decidendi of the decision of Hon'ble Delhi High Court in CIT (International Taxation) vs. Brandix Mauritius Holdings Ltd. dated 20.03.2023 reported in (2023) 293 Taxman 385 (Delhi) and subsequent decisions of the Hon'ble Calcutta High Court in the case of M/s. Tata Medical Centre Trust and Hon'ble Bombay High Court in the case of Ashok Commercial Enterprises (supra).

14. The Hon'ble Jurisdictional High Court of Delhi dismissed the Revenue's appeal in Brandix Mauritius Holdings Ltd.'s case (supra) observing and holding as under:-

"8.1 In a nutshell, communications referred to in the 2019 Circular would fall in the following slots:

- *i. Those which do not fall in the exceptions carved out in paragraph 3(i) to (v)*
- *ii Those which fall in the exceptions embedded in paragraph 30 to (v), but do not adhere to the regime set forth in the 2019 Circular.*

8.2 Therefore, whenever communications are issued in the circumstances alluded to in paragraph 3(i) to (v), i.e., are issued manually without a DIN, they require to be backed by the approval of the Chief Commissioner/Director General. The manual communication is required to
furnish the reference number and the date when the approval was granted by the concerned officer. The formatted endorsement which is required to be engrossed on such a manual communication, should read as follows:

> *"....This communication issues manually without a DIN on account of reason/reasons given in para 3(i)/3(ii)/3(iii)/3(iv)/3(v) of the CBDT Circular No... dated..... (strike off those which are not applicable) and with the approval of the Chief Commissioner/Director General of Income Tax vide number.... dated....."*

12. We have heard learned counsel for the parties. The present appeal is preferred under Section 260A of the Act. The Court's mandate, thus, is to consider whether or not a substantial question of law arises for consideration.

12.1 As noted above, the impugned order has not been passed on merits. 13. The Tribunal has applied the plain provisions of the 2019 Circular, based on which, it has allowed the appeal preferred by the respondent/assessee.

14. The broad contours of the 2019 Circular have been adverted to by us hereinabove.

14.1 Insofar as the instant case is concerned, admittedly, the draft assessment order was passed on 30.12.2018.

15. The respondent/assessee had filed its objections qua the same, which were disposed of by the Dispute Resolution Panel [DRP] via order dated 20.09.2019.

16. The final assessment order was passed by the Assessing Officer (AO) on 15.10.2019, under Section 147/144(C)(13)/143(3) of the Act. Concededly, the final assessment order does not bear a DIN. There is nothing on record to show that the appellant/revenue took steps to demonstrate before the Tribunal that there were exceptional circumstances, as referred to in paragraph 3 of the 2019 Circular, which would sustain the communication of the final assessment order manually, albeit, without DIN.

16.1 Given this situation, clearly paragraph 4 of the 2019 Circular would apply.

17. Paragraph 4 of the 2019 Circular, as extracted hereinabove, decidedly provides that any communication which is not in conformity with paragraph 2 and 3 shall be treated as invalid and shall be deemed to have never been issued. The phraseology of paragraph 4 of the 2019 Circular fairly puts such communication, which includes communication of assessment order, in the category of communication which are non-est in law.

17.1 It is also well established that circulars issued by the CBDT in exercise of its powers under Section 119 of the Act are binding on the" revenue.

17.2 The aforementioned principle stands enunciated in a long line of judgements, including the Supreme Court's judgment rendered in ***K.P. Varghese v. Income Tax Officer, Ernakulam and Anr., (1981) 4 SCC 173****. The relevant extracts are set forth hereafter:*

> *"12. But the construction which is commending itself to us does not rest merely on the principle of contemporanea expositio. The two circulars of the Central Board of Direct Taxes to which we have just referred are legally binding on the Revenue and this binding character attaches to the two circulars even if they be found not in accordance with the correct interpretation of sub-section (2) and they depart or deviate from such construction. It is now well settled as a result of two decisions of this Court, one in Navnitlal C. Javeri v. K.K. Sen [AIR 1965 SC 1375 : (1965) 1 SCR 909 : 56 ITR 198] and the other in Ellerman Lines Ltd. v. CIT[(1979) 4 SCC 565] that circulars issued by the Central Board of Direct Taxes under Section 119 of the Act are binding on all officers and persons employed in the execution of the Act even if they deviate from*

the provisions of the Act. The question which arose in Navnitlal C. Javeri case [AIR 1965 SC 1375 : (1965) 1 SCR 909 : 56 ITR 198] was in regard to the constitutional validity of Sections 2(6-A)(e) and 12(1-B) which were introduced in the Indian Income Tax Act, 1922 by the Finance Act, 1955 with effect from April 1, 1955. These two sections provided that any payment made by a closely held company to its shareholders by way of advance or loan to the extent to which the company possesses accumulated profits shall be treated as dividend taxable under the Act and this would include any loan or advance made in any previous year relevant to any assessment year prior to Assessment Year 1955-56, if such loan or advance remained outstanding on the first day of the previous year relevant to Assessment Year 1955-56. The constitutional validity of these two sections was assailed on the ground that they imposed unreasonable restrictions on the fundamental right of the assessee under Article 19(1)(f) and (g) of the Constitution by taxing outstanding loans or advances of past years as dividend. The Revenue however relied on a circular issued by the Central Board of Revenue under Section 5(8) of the Indian Income Tax Act, 1922 which corresponded to Section 119 of the present Act and this circular provided that if any such outstanding loans or advances of past years were repaid on or before June 30, 1955, they would not be taken into account in determining the tax liability of the shareholders to whom such loans or advances were given. This circular was clearly contrary to the plain language of Section 2(6-A)(e) and Section 12(1-B), but even so this Court held that it was binding on the Revenue and since:

> *"past transactions which would normally have attracted the stringent provisions of Section 12(1-B) as it was introduced in 1955, were substantially granted exemption from the operation of the said provisions by making it clear to all the companies and their shareholders that if the past loans were genuinely refunded to the companies they would not he taken into account under Section 12(1 -B), "*

Sections 2(6-A)(e) and 12(1-B) did not suffer from the vice of unconstitutionality. This decision was followed in Ellerman Lines case [(1972) 4 SCC 474 : 1974 SCC (Tax) 304 : 82 ITR 913] where referring to another circular issued by the Central Board of Revenue under Section 5(8) of the Indian Income Tax Act, 1922 on which reliance was placed on behalf of the assessee, this Court observed:

> *"Now, coming to the question as to the effect of instructions issued under Section 5(8) of the Act, this Court observed in Navnitlal C. Javeri v. K.K. Sen, Appellate Assistant Commissioner, Bombay [AIR 1965 SC 1375 : (1965) 1 SCR 909 : 56 ITR 198] :*
>
> *'It is clear that a circular of the kind which was issued by the Board would be binding on all officers and persons employed in the execution of the Act under Section 5(8) of the Act. This circular pointed out to all the officers that it was likely that some of the companies might have advanced loans to their shareholders as a result of genuine transactions of loans, and the idea was not to*

> > *affect such transactions and not to bring them within the mischief of the new provision. '*
> >
> > *The directions given in that circular clearly deviated from the provisions of the Act, yet this Court held that the circular was binding on the Income Tax Officer. "*
>
> *The two circulars of the Central Board of Direct Taxes referred to above must therefore be held to be binding on the Revenue in the administration or implementation of sub-section (2) and this subsection must be read as applicable only to cases where there is understatement of the consideration in respect of the transfer. " [Emphasis is ours]*

*17.3 Also see the following observations of a coordinate bench in **Back Office IT Solutions Pvt. Ltd. v. Union of India,** 2021 SCC OnLine Del 2742, in the context of the impact of circulars issued by the revenue:*

> *"24....In this context, tax administrators have to bear in mind the well-established dicta that circulars issued by the statutory authorities are binding on them, although, they cannot dictate the manner in which assessment has to be carried out in a particular case. A Circular cannot be side-stepped causing prejudice to the assessee by bringing to naught the object for which it is issued. [See: K.P. Varghese vs. Income-tax Officer 1, [1981] 7 Taxman 13 (SC); Also see: UCO Bank, Calcutta v. Commissioner of Income Tax, W.B., (1999) 4 SCC 599]. "*

18. The argument advanced on behalf the appellant/revenue that recourse can be taken to Section 292B of the Act is untenable having regard to the phraseology used in paragraph 4 of the 2019 Circular.

19. The object and purpose of the issuance of the 2019 Circular, as indicated hereinabove, inter alia, was to create an audit trail. Therefore, the communication relating to assessments, appeals, orders, etcetera which find mention in paragraph 2 of the 2019 Circular, albeit without DIN, can have no standing in law, having regard to the provisions of paragraph 4 of the 2019 Circular.

20. The logical sequitur of the aforesaid reasoning can only be that the Tribunal's decision to not sustain the final assessment order dated 15.10.2019, is a view that cannot call for our interference.

21. As noted above, in the instant appeal all that we are required to consider is whether any substantial question of law arises for consideration, which, inter alls, would require the Court to examine whether the issue is debatable or if there is an alternate view possible. Given the language employed in the 2019 Circular, there is neither any scope for debate not is there any leeway for an alternate view.

21.1 We find no error in the view adopted by the Tribunal. The Tribunal has simply applied the provisions of the 2019 Circular and thus, reached a conclusion in favour of the respondent/assessee.

22. Accordingly, the appeal filed by the appellant/revenue is closed."

15. In view of the above factual matrix of the assessee's case and respectfully following the decision of the Hon'ble Jurisdictional High Court of Delhi in the case of Brandix Mauritius Holdings Ltd. (supra) as well as the binding CBDT Circular 19/2019, we are inclined to quash the assessment order(s) dated 31.12.2019 passed by the Ld. AO under section 254/153C/144 of the Act. As a natural corollary, the impugned order(s) of the Ld. CIT(A) dated 28.11.2022 which is the subject matter of appeals before the Tribunal would have no legs to stand. Accordingly, they are set aside.

16. The additional ground taken by the assessee raising purely legal issue is allowed. We are not adjudicating the appeals on merits.

17. In the result, all six quantum appeals of the assessee are allowed.

Penalty Appeals – ITA Nos. 2945, 2946, 2947, 2948, 2949, 2950/Del/2022

18. The common grounds of appeal raised by the assessee in all the six penalty appeals (except the amount of impugned penalty which varies in each of the AYs) are as unders:

"1. That having regard to the facts and circumstances of the case, Ld. CITIA) has erred in law and on facts in confirming the action of Ld. AO in imposing penalty of Rs.72,685/- u/s 271(1)(c) and framing the impugned penalty order and that too without assuming jurisdiction as per and without complying with the mandatory conditions laid down under the said section.

2. That having regard to the facts and circumstances of the case Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in imposing penalty of Rs.72,685/- and passing the impugned penalty order being illegal and void ab-initio and without obtaining the valid approval from the competent authority in accordance with law.

3. That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in imposing penalty of Rs.72.685/-u/s 271(1)(c), is bad in law and against the facts and circumstances of the case and without granting adequate opportunity of hearing and without observing the principles of natural justice.

4. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in imposing the penalty of Rs.72,685/- and passing the impugned penalty order and that too without recording the mandatory 'satisfaction' as per law and without levying a clear charge whether there was 'concealment of income' or furnishing of inaccurate particulars of income'.*

5. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in imposing penalty and passing the impugned penalty order and that too without the valid approval of Ld. Addl. CIT."*

19. Since, we have quashed the assessment order(s), the issues arising in penalty appeals relating thereto for all the six AYs involved have no legs to stand. The penalty imposed therefore, do not survive. Hence, all the six penalty appeals become infructuous and need not be adjudicated.

20. In the result, the six quantum appeals and six penalty appeals of the assessee for AYs 2007-08, 2008-09, 2009-10, 2010-11, 2012-13, 2013-14 are allowed.

Order pronounced in the open court on 12th December, 2023.

sd/-	sd/-
(M. BALAGANESH)	**(ASTHA CHANDRA)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Dated: 12/12/2023

Copy forwarded to -
1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT 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	
Date on which the file goes to the Bench Clerk	
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	