

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC': NEW DELHI**

**BEFORE,
SHRI S.RIFAUH RAHMAN, ACCOUNTANT MEMBER**

**ITA No.862/Del/2024
(ASSESSMENT YEAR 2014-15)**

Lauls Private Limited 33B, NIT Faridabad Haryana-121001 PAN-AAACL3118P	Vs.	Asst.CIT Circle-1 Faridabad
(Appellant)		(Respondent)

Assessee by	Shri M.K. Gupta, CA and Shri Sahil Girdhar, CA
Respondent by	Shri Om Prakash, Sr. DR

Date of Hearing	06/05/2024
Date of Pronouncement	10/05/2024

ORDER

PER S.RIFAUH RAHMAN, AM:

1. This appeal has been filed by the Assessee against the order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ["Ld. CIT(A)", for short], dated 31/01/2024 for Assessment Year 2012-13.

2. The assessee has raised the following grounds of appeal:

"1. The Ld. CIT(A) has erred on facts and in law in confirming the 100% penalty levied u/s 271(1)(c) on addition of disallowance of depreciation of Rs. 11,98,500/- on crane purchased by the assessee company in year AY 2013-14 and accordingly depreciation to be disallowed in subsequent year as well i.e., in AY 2014-15. Such disallowance was directed to be deleted

by this Hon'ble ITAT in its order dated 28.06.2022 and hence assessee deserves the right for deletion of penalty levied on such allowed expense.

2. The Ld. CIT(A) has erred on facts and in law In confirming the 100% penalty levied u/s 271(1)(c) on addition of disallowance of interest of Rs. 5,26,198/ on account of issuing interest free loans and advances when such disallowance was directed to be deleted by this Hon'ble ITAT in its order dated 28.06.2022. As Hon'ble ITAT accepted the allowance of the expense and hence assessee deserves the right for deletion of penalty levied on such allowed expense.

3. The Ld. CIT(A) has erred on facts and in law in confirming the 100% penalty levied u/s 271(1)(c) on addition of disallowance of depreciation of Rs. 5,25,000/- as it is well settled law that the penalty under section 271(1)(c) cannot be levied for disallowance of expenditure claimed.

4. That in view of the facts and circumstances of the matter, the additions made in the order are bad in law and be deleted.

5. That the appellant craves the leave to add, modify, amend, or delete any grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”

3. At the time of hearing, Ld. AR submitted that the appeal preferred by the assessee is relating to penalty proceedings initiated by the Assessing Officer against the additions proposed by him in relation to disallowance on depreciation on crane purchased by the assessee, disallowance of interest on account of interest free loans and advance and disallowance of depreciation on the assets purchased from the related parties. He submitted that the issue under consideration was decided by the Hon'ble ITAT in favour of the assessee vide order in ITA No.473/Del/2017,

ITA No.3284 & 5485/Del/2018 dated 28/06/2022. Since, the quantum addition was deleted by the Hon'ble ITAT, on the same addition penalty cannot be levied. He prayed that the penalty appeal may be decided in faovur of the assessee.

4. On the other hand, the Ld. DR fairly accepted that in quantum addition the Hon'ble ITAT has deleted the addition, with regard to penalty, he submitted that assessee has filed inaccurate particulars before the Assessing Officer, therefore, the penalty has to be sustained.

5. Considered the rival submissions and material placed on record, we observed that the Assessing Officer has made the above said additions in assessment order, however, the same was reached finality by the order of the Co-ordinate Bench in assessee's own case by deleting the quantum addition made by the assessee. Based on the information available on record, the Assessing Officer has initiated the penalty proceedings against the same addition, therefore, the penalty proceedings initiated on the same issue of disallowance needs to be deleted and, accordingly,

decided in favour of the assessee. Therefore, we direct the Assessing Officer to delete the penalty levied. Accordingly, grounds raised by the assessee are allowed.

6. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 10th May, 2024.

Sd/-
(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated:10/05/2024

Pk/sps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI