

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C", MUMBAI**

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

ITA NO.1620/MUM/2024
Assessment Year :2013-14
ITA NO.1622/MUM/2024
Assessment Year : 2012-13

DCIT-CC-4(3),Mumbai,
Room No.1921, Air India Building,
Nariman Point,
Mumbai – 400 021

- Appellant

Vs.

Cascade Holdings Pvt. Ltd.
32, Madhuli, Dr. Anni Besant Road,
Worli, Mumbai – 400 018.
PAN: AAACC-5768-N

- Respondent

Appellant by : Dr.P.Daniel, Spl. Counsel
Respondent by : Shri Dharmesh Shah &
Mitali Parekh

Date of Hearing : 20/06/2024
Date of Pronouncement : 24/06/2024

ORDER

PER B.R. BASKARAN, ACCOUNTANT MEMBER :

The Revenue has filed these appeals challenging the orders passed by learned CIT(A)-52, Mumbai and they relate to the Assessment Years 2012-13 and 2013-14. The Revenue is aggrieved by the decision of learned CIT(A) in deleting the penalty levied u/s. 271(1)(c) of the Act in these two years.

2. The learned A.R submitted that the assessee had challenged the quantum assessment orders passed for these two years by filing appeals before the learned CIT(A) and thereafter before the Tribunal. The Tribunal has since passed orders for the years under

consideration in ITA No.6965&6966, 6768 &6769/Mum/2018 against the cross appeals filed by the parties on 16/03/2020. Consequent to the passing of orders by the Tribunal, the additions made by the Assessing Officer stood deleted in both the years. The learned A.R submitted that the learned CIT(A) has appreciated this fact and accordingly found that the returned income of the assessee came to be assessed by the Assessing Officer in the consequential orders passed by Assessing Officer. Accordingly, in the absence of any addition, the learned CIT(A) held that the penalty levied by the Assessing Officer u/s. 271(1)(c) of the Act cannot be sustained. Accordingly he deleted the penalty in both the years.

3. The Id. Departmental Representative submitted that the Revenue has challenged the orders passed by the Tribunal in the quantum assessment proceedings before Hon'ble High Court and hence, the Revenue is required to pursue these penalty appeals to keep the matter alive.

4. We heard the parties and perused the record. The fact would remain that the additions made by the Assessing Officer, on which impugned penalty was levied by the AO in both these years has since been deleted by the Tribunal. It is not shown to us that the orders so passed by Tribunal has been stayed by Hon'ble High Court. Accordingly, under the above discussed facts, the impugned penalty orders will not survive. Accordingly, we are of the view that orders passed by learned CIT(A) does not call for any interference and uphold the same in both the years.

5. In the result, both the appeals filed by the Revenue are dismissed.

Order pronounced in the open court on 24th June, 2024.

Sd/-

(SUNIL KUMAR SINGH)
JUDICIAL MEMBER
Mumbai, Date :24th June, 2024

Sd/-

(B.R. BASKARAN)
ACCOUNTANT MEMBER

Vm

Copy to :

- 1) The Applicant
- 2) The Respondent
- 3) The PCIT/CIT concerned
- 4) The D.R, "C" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai