

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR

BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND
HON'BLE SHRI UDAYAN DAS GUPTA, JM

(Hybrid Hearing)

आयकरअपील सं. / ITA No.232/Agr/2024
(निर्धारणवर्ष / Assessment Year: 2014-15)

DCIT, Central Circle-1 Bhatinda -151 001	बनाम/ Vs.	M/s Talwandi Sabo Power Ltd. Village Banawala, Mansa Talwandi Sabo Road, Punjab. 151302.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AACCT-6775-G		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee By	:	Sh. Neeraj Jain, Sh. Deepesh Jain, (Advts) & Ms Aditi Garg, CA – Ld. ARs
Revenue By	:	Sh. Manpreet Singh Duggal – Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	27-03-2025
घोषणाकीतारीख / Date of Pronouncement	:	16-04-2025

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by Revenue for Assessment Year (AY) 2014-15 arises out of an order of learned Commissioner of Income Tax (Appeals), dated 22-03-2024 in the matter of impugned [enalty levied by Ld. AO u/s 271(1)(c) vide its order dated 31-01-2019. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

2. From case records, it emerges that an assessment was framed u/s 143(3) for this year on 26-12-2016. The assessee is stated to be in the process of setting up of a thermal power plant at Mansa. The assessee did not reflect any revenue but it reflected gross expenditure of Rs.46.88 Crores out of which the assessee disallowed capital expenditure of Rs.41.80 Crores in computation of income and accordingly, claimed loss of Rs.5.08 Crores. Since there was no commercial operation, Ld. AO held that remaining expenditure was also required to be capitalized. Finally, the assessment was framed which stood confirmed in first appeal vide order dated 04-10-2017.

3. Consequently, penalty proceedings were initiated against the assessee u/s 271(1)(c) which culminated into impugned penalty of Rs.1.65 Crores vide AO's order dated 31-01-2019 despite the claim of the assessee that it was not a case of furnishing of inaccurate particulars of income by the assessee. The impugned issue was debatable one and involved interpretation of law. Nevertheless, full details were made available on record and therefore, no penalty could be levied on these facts. However, these arguments stood rejected by Ld.AO.

4. During appellate proceedings, the assessee reiterated the aforesaid arguments and stated that the adjustment was nothing but bona-fide difference of opinion between the assessee and Ld. AO. The Ld. CIT(A), in para-4 of the impugned order, concurred that the assessee, under bona-fide impression, claimed the above expenses as revenue u/s 37 of the Act. However, Ld. AO opined differently. In this

situation, the ratio of Hon'ble Supreme Court in the case of **Reliance Petroproducts Pvt. Ltd. (189 Taxman 322)** would apply holding that mere non-acceptance of a claim would not automatically lead to imposition of penalty on the assessee. Aggrieved, the revenue is in further appeal before us.

5. From the aforesaid facts, it clearly emerges that the assessee has incurred certain expenditure which were substantially disallowed by the assessee being capital in nature. The remaining expenditure was claimed under bona-fide belief that the same would be an allowable deduction u/s 37. The Ld. AO opined differently. Nevertheless, on these facts, it could not be said that the assessee furnished inaccurate particulars of its income. The full details of expenditure were made available in the financial statements and Income Tax Returns. The expenditure has not been held to be non-genuine. Under these circumstances, the ratio of cited decision has correctly been applied by Ld. CIT(A). The impugned adjudication is further supported by the decision of Hon'ble High Court of Punjab & Haryana in the case of **CIT vs. Bhushan Power & Steel Ltd. (156 Taxmann.com 368)** rendered on similar fact wherein the issue was related to interpretation as to whether sales tax subsidy would be treated as revenue receipt or capital receipt. The Hon'ble Court held that no penalty could be levied on these facts. This case law also supports the view taken in the impugned order. Accordingly, we find no reason to interfere in the same.

6. The appeal stand dismissed.

Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-

(UDAYAN DASS GUPTA)
न्यायिक सदस्य /JUDICIAL MEMBER

Sd/-

(MANOJ KUMAR AGGARWAL)
लेखा सदस्य /ACCOUNTANT MEMBER

Dated: 16-04-2025

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AMRITSAR