

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

BEFORE SHRIS.RIFAUR RAHMAN, ACCOUNTANT MEMBER

**ITA No.1181/DEL/2024
(Assessment Year: 2014-15)**

BHL Forex and Finlease Limited,
6, Mohan Singh Place,
Connaught Place,
New Delhi – 110 001.

vs. DCIT, Central Circle - 2,
New Delhi.

(PAN : AABCB8886H)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Ms. Gini Gandhi, Advocate
Ms. Anu Bajaj, Advocate
REVENUE BY : Shri Sanjay Kumar, Sr. DR

Date of Hearing : 13.03.2025
Date of Order : 14.05.2025

ORDER

1. The assessee has filed this appeal against the order of the Learned Commissioner of Income Tax (Appeals)-23, New Delhi ["Ld. CIT(A)", for short] dated 11.07.2023 for the Assessment Year 2014-15.
2. At the time of hearing, ld. AR of the assessee submitted that the appeal filed by the assessee is against imposition of penalty under section 271(1)(c) of the Income-tax Act, 1961 (for short 'the Act'). In this regard, he submitted that assessee has filed its original return of income u/s 139(4) of the Act which was belated return and declared the loss. As per the provisions of the Act, the losses declared in the belated returns

cannot be carried forward. He submitted that the case of the assessee was reopened u/s 147/148 of the Act and the Assessing Officer has made certain additions which have resulted in reduction in declared loss. He submitted that assessee has filed the return of income against the notice issued u/s 148 declaring the loss return. Since the loss declared in the return of income cannot be carried forward if there is any reduction in the revised return of income cannot impact the future tax liability. In this regard, he brought to my notice page 12 of the paper book which is the original return of income filed by the assessee declaring loss of Rs.15,41,784/- and he also brought to my notice page 15 of the paper book which is the revised return of income filed on 29.03.2023. He prayed that the imposition of penalty u/s 271(1)(c) be deleted and he relied on the following case laws :-

- (i) Delhi ITAT in the case of Toscana Lasts Limited vs. ITO – 2014-ITRV-ITAT-DEL-118
- (ii) ITAT Lucknow Bench in the case of Pankaj Kumar Gupta vs. ITO in ITA No.486/LKW/2016 dated 16.01.2018.

3. On the other hand, ld. DR of the Revenue relied on the findings of the lower authorities.
4. Considered the rival submissions and material placed on record. I observed that the case of the assessee was reopened u/s 147 of the Act and the income was computed in the assessment order as under :-

Computation of total income		
	Particulars	Amount (in Rs.)
(i)	Original Returned loss u/s 139	-(3,31,35,930)/-
(ii)	All adjustment made in earlier assessments/reassessments	N.A.
(iii)	Last Assessed Income (i + ii)	-(3,31,35,930)/-
(iv)	Differential or additional income voluntarily declared by the assessee in the ITR filed u/s 148	1,05,82,796/-
(v)	Addition on account of disallowance of expenses of Rs.96,84,734	96,84,734/- (suo moto disallowed)
	Addition on account of disallowance u/s 14A of the Act	1,56,583/- (suo moto disallowed)
	Addition on account of late deposit of TDS/ST	1,28,064/- (suo moto disallowed)
(vi)	Any other adjustment made to arrive at the correct value of "Total Income"	0
	Total Assessed Income	-(2,25,53,134/-)
	Rounded off 288A	-(2,25,53,130/-)

5. From the above, I observed that the Assessing Officer has considered the loss declared in the original return of income u/s 139(4) of the Act and also after making the addition, the total loss was determined. Even the assessee has declared original return of income with returned loss as well as in revised return of income declaring loss. We observed from the assessment order passed u/s 147 r.w.s. 143(3) that Assessing Officer has observed that the assessee has not carried forward the business loss of (-Rs.(-)3,15,94,146/- in the subsequent assessment years. However, while completing the assessment, he considered the unclaimed carried forward of loss and reduced the voluntary disallowance of expenses for which the reassessment proceedings were initiated on the behest of audit objection. We observed that when the assessee has chose not to carry forward the

returned losses to future assessment years, the reduction in such amount which the assessee chose not to carry forward, the adjusted losses have no impact on the taxable income. That being the case, there is no intention to conceal the income nor to furnish inaccurate particulars of income. Therefore, there is no requirement to impose the present penalty on the adjusted losses which were already surrendered not to carry forward the same to the subsequent assessment years. Hence, I am inclined to direct the Assessing Officer to delete the penalty imposed.

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

Order pronounced in the open court on this 14th day of May, 2025.

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated: 14.05.2025
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Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI