

IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, CHANDIGARH

BEFORE HON’BLE SHRI LALIET KUMAR, JM
AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकरअपील सं. / ITA No. 582/CHANDI/2024
(निर्धारणवर्ष / Assessment Year: 2013-14)

Chandigarh Housing Board 8, Jan Marg, Sector 9 Chandigarh.	बनाम/ Vs.	ACIT - Circle1(1) Aaykar Bhawan Chandigarh-160017
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAALC-0132-H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. A K Jindal & Smt. Rattan Kaur (CAs) – Ld. ARs
प्रत्यर्थीकीओरसे/ Respondent by	:	Sh. Vivek Vardhan (Addl. CIT) – Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	23-04-2025
घोषणाकीतारीख / Date of Pronouncement	:	16-05-2025

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aggrieved by confirmation of certain penalty u/s 271(1)(c) for Rs.24.92 Lacs, the assessee is in further appeal before us. The impugned penalty has been levied by Ld. AO vide order dated 31-03-2019 which has been confirmed by learned Commissioner of Income Tax (Appeals), National Faceless Appeals Centre [CIT(A)] vide order dated 19-03-2024. The Ld. AR advanced arguments and cited various case laws favoring the case of the assessee. The Ld. Sr. DR also advanced arguments in support of levy of penalty. Having heard rival

submissions and upon perusal of case records, the appeal is disposed-off as under.

2. The assessee is assessed as Artificial Juridical person. The assessee is Chandigarh Administration undertaking established in the year 1976 by extending the Haryana Housing Board Act, 1971 to the Union Territory of Chandigarh. The primary object of the assessee is to provide reasonably priced, good quality housing to poor people. An assessment was framed on assessee u/s 143(3) wherein Ld. AO disallowed certain expenditure viz. interest expenses, Income Tax expenditure, maintenance expenditure and loss on sale of fixed assets. Consequently, impugned penalty was initiated against the assessee. During first appeal, the assessee challenged disallowance of Income Tax expenditure and maintenance charges which was partly allowed and disallowance of Rs.80.66 Lacs was confirmed. Considering the same, Ld. AO levied penalty of Rs.24.92 Lacs. The Ld. CIT(A) confirmed the same on the ground that the assessee concealed the particulars of its income and the assessee failed to file any cogent explanation thereof. Aggrieved, the assessee is in further appeal before us.

3. Upon perusal of assessee's submissions, it could be seen that Income Tax expenditure of Rs.3.32 Lacs represent income tax on perk value on account of concessional accommodation provided by the assessee to its employees. The assessee has provided residential houses to some of its employees on a nominal rent. The income tax on the differential value of this perquisite is deposited by the assessee.

It is clear that this expenditure is not in the nature of Income Tax on the income of the assessee and therefore, no penalty could be imposed against the same on account of its disallowance since the same is claimed under a bona-fide belief.

4. The maintenance expenditure is on account of maintenance of old complexes / colonies as developed by the assessee for which the possession was already been given by the assessee to the allottees. The said expenditure was claimed by the assessee. However, a part of the expenditure has been disallowed on the ground that the same was related to earlier period. A part of the expenditure was rectified by the assessee which was not accepted. On these facts, it could be seen that the expenditure was not disallowed on the ground of genuineness but the disallowance was more on technical breaches. In such a case, the ratio of decision of Hon'ble Apex Court in the case of **Reliance Petroproducts Pvt. Ltd. (189 Taxman 322)** would apply wherein it was held that mere non-acceptance of a claim would not automatically lead to imposition of penalty on the assessee. Therefore, we delete the impugned penalty and allow the appeal of the assessee.

5. The appeal stand allowed.

Order pronounced on 16-05-2025.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated: 16-05-2025

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 CHANDIGARH