

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH, DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &  
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

**ITA No. 4939/Del/2025  
(Assessment Year: 2013-14)**

Cambridge Construction (Delhi) Private Limited 11, Monnet House, Masjid Moth, New Delhi – 110048	Vs.	ITO, Ward 5(3) New Delhi – 110002
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAACC0295N		
Appellant	..	Respondent

Appellant by :	Sh. VK Jain, CA Sh. Vikas, CA
Respondent by :	Sh. Om Prakash, Sr. DR

Date of Hearing	27.11.2025
Date of Pronouncement	05.11.2025

**ORDER**

**PER ANUBHAV SHARMA, JM:**

This appeal is preferred by the assessee against the order dated 10.07.2025 of the National Faceless Appeal Centre (NFAC) Delhi (hereinafter referred as Ld. First Appellate Authority or in short Ld. ‘FAA’) in DIN & Order No. ITBA/NFAC/S/250/2025-26/1078345852(1) arising out of the order dated 29.10.2021 passed u/s 271(1)(c) of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’) by

the National Faceless Assessment Centre, Delhi (hereinafter referred to as the Ld. AO) for AY: 2013-14.

2. Heard and perused the records. The return of income of appellant company was filed on 28.09.2013 wherein declared the following income and taxes payable:-

a) Declared Normal Income	-	Rs.9,79,660/-
b) Tax Payable on Normal Income	-	Rs. 3,02,714/-
c) Book Profit Declared u/s 115JB	-	Rs. 11,49,68,908/-
d) Tax Payable u/s 115JB	-	Rs.2,30,02,692/-
e) Tax Paid Higher of the two	-	Rs.2,30,02,692/-

3. Subsequent to the filing of return of income, case of the appellant company was selected for scrutiny and assessment order was passed u/s 143(3) of Income Tax Act, 1961 dated 22.03.2016, where in assessed total normal income Rs. 9,82,55,575/- as against returned income of Rs. 9,79,660/- and assessed Book Profit u/s 115JB at Rs. 11,49,68,908/-. In the assessment following disallowances were made:-

1. Disallowance of Long Term Capital Loss brought forward Rs.9,65,75,575/-
2. Disallowance of current year business loss of Rs.7,00,385/-

4. The Ld. AO levied Penalty u/s 271(1)(c) dated 29.10.2021 and levied Penalty of Rs.2,70,00,000/-.

4.1 An appeal was filed before CIT(A) against Order u/s 143(3) dated 22.03.2016 and the appeal was dismissed vide order u/s 250 dated 28.05.2019.

5. An appeal was filed before ITAT and the business loss of Rs.7,00,385/- has been allowed by the ITAT, B-Bench, New Delhi having ITA No. 6655/Del/2019 vide order dated 14.07.2023.

6. The assessing officer has disallowed brought forward Long Term Capital Loss for Assessment Year 2007-08 against the long term income of Rs.9,65,75,575/- for Assessment Year 2013-14 and an appeal was filed before the Hon'ble Delhi High Court having ITA No. 62/2024 dated 25.01.2024 and the appeal of the assessee was allowed by the Hon'ble High Court as contained in para 7, 8 & 9 of the order. The extracts of Para 7, 8 & 9 are as under:-

“7. *The principles with respect to set off and carry forward of losses as enunciated therein would in fact support the contention of the assessee. In our considered opinion, while it was incumbent upon the assessee to have established the incurring of losses and which was sought to be set off against the Long Term Capital Gains for the year in question, namely AY 2013-14, there was no occasion for the assessee having taken the Section 154 route since undisputedly the AO while framing the assessment for AY 2007-08 had not adversely commented upon the same.*

8. *In view of the above, we are of the considered opinion that the impugned orders would be liable to be set aside and the matter remitted to the AO to examine the claim for eligibility and set off afresh bearing in mind the evidence and other material that the assessee may place for its consideration. All rights and contentions of respective parties in this respect are kept open.*

9. *Consequently, we answer the question as framed in favour of the assessee. The appeal shall accordingly stand allowed. The impugned order dated 14 July 2023 is hereby set aside. The matter shall stand remanded to the AO to proceed further in terms provided hereinabove.”*

7. (a) As per directions of the Hon'ble Delhi High Court the Assessing Officer, Assessment Unit, Income Tax Department passed Orders u/s 143(3) r.w.s. 260 read with Section 144B of Income Tax Act dated 03.03.2025 passed the order and assessed total income at NIL as per the assessment order:-

		Amount (Rs.)
	Income from house property Long Term Capital Gain	16,80,000 9,78,47,950
	<b>Total</b>	<b>9,95,27,950</b>
Less:	Business Loss for Current Year (Allowed by ITAT)	7,00,341
		<b>9,88,27,609</b>
Less	Brought forward Long term Capital Loss A.Y. 2005-06	(-) 12,72,375
	A.Y. 2007-08 (Allowed by Hon'ble Delhi High Court)	(-) <b>9,75,55,234</b>
		9,88,27,609
	<b>Gross Total Income</b>	<b>Nil</b>

(b) The Ld. AO on Page 30 of the assessment order u/s 143(3) r.w.s. 260 has not initiated any penalty u/s 271(1)(c) of Income Tax Act.

8. Since both the disallowances on the basis of which penalty of Rs.2,70,00,000/- have been levied by the AO stands deleted and therefore levy of penalty has lost the substratum however in the impugned order of CIT(A) confirming penalty u/s 271(1)(c) of the Act subsequent decisions of the Tribunal and Hon'ble High Court are left out of

consideration. Thus we allow the grounds. The appeal is allowed. The impugned penalty is deleted.

Order pronounced in the open court on 05.11.2025

Sd/-  
(Naveen Chandra)  
ACCOUNTANT MEMBER

Sd/-  
(Anubhav Sharma)  
JUDICIAL MEMBER

Dated 05.11.2025  
Rohit, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI