

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'A' NEW DELHI  
BEFORE SHRI R. S. SYAL, ACCOUNTANT MEMBER  
AND  
SMT SUCHITRA KAMBLE, JUDICIAL MEMBER  
I.T.A .No.-681/DEL/2014  
(ASSESSMENT YEAR-2009-10)**

M/s. Bentex Control & Switchgear Co. C/o M/s. Bhatia Behl & Associates, 26/8, Old Rajinder Nagar, Delhi – 110 060 AAAFB6531D <b>(APPELLANT)</b>	vs	ACIT Circle – 27(1), D- Block, Room No. 218, Vikas Bhawan, I. P. Estate, New Delhi  <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Sh. K. K. Jaiswal, DR</b>
<b>Respondent by</b>	<b>Shri R. S. Singhvi, CA</b>

<b>Date of Hearing</b>	<b>07.01.2016</b>
<b>Date of Pronouncement</b>	<b>07.01.2016</b>

**ORDER**

**PER SUCHITRA KAMBLE, JM**

This appeal is filed against the order dated 21/11/2013 passed by CIT (A)-XXIV, New Delhi. This appeal is filed by the Assessee for the Assessment Year 2009-10.

2. The grounds of appeal are as follows:-

- “1. That on the facts and circumstances of the case, the order of the Ld. CIT(A) is bad in law as well as on the facts of the case.*

2. *That on the facts and circumstances of the case the Ld. CIT(A) grossly erred in sustaining the penalty of Rs. 5,28,365/- u/s. 271(1)(c) of the Income Tax Act imposed by the Ld AO.*
3. *That on the facts and circumstances of the case the Ld. CIT(A) grossly erred in not providing any meaningful and effective opportunity to the assessee and passing the order against the principal of natural justice*
4. *That the appellant crave leave to take additional ground or grounds of appeal or to alter or vary any or all the grounds of appeal before or at the time of bearing of the appeal.*

3. The assessee is a partnership firm carrying on the business of manufacturing, sale and purchase of electrical goods such as Electrical Motors, Starters, Electrical Meter, MCB and other electrical goods. The Assessee filed its return of income for the relevant Assessment Year 2009-10 on 29.09.2009 declaring income of Rs. 46,49,170/-. The case of the assessee was selected for scrutiny. During the course of assessment the Assessing Officer noted that the assessee had made the investment of Rs. 5.50 crores in the shares, the income from which if received in the shape of dividend is exempt. Accordingly, the assessee was asked to explain as to why the interest should not be disallowed by invoking the provisions of Section 14A read with Rule 8D of the Income Tax Rules. In reply the assessee submitted before the Assessing Officer that the interest and other expenses disallowable under Rule 8D comes to Rs. 17,09,920/- and offered the same for addition in the income of the assessee for the year under consideration. The

scrutiny assessment of the assessee firm was completed u/s. 143(3) of the Act on 27.12.2011 wherein the Assessing Officer assessed the income of the assessee at Rs. 65,01,950/- after making the additions of Rs. 17,09,920/- on account of disallowance of interest and Rs. 1,42,860/- out of discount and rebate. The Assessing Officer also initiated penalty proceedings u/s. 271(1)(c) of the Income Tax Act, 1961 on the ground that the assessee has furnished inaccurate particulars of income by the claim of excess expenses on account of interest in its P & L account without making deductions of Rs. 17,09,920/- u/s 14A read with Rule 8D of the Income Tax Rules. During the course of penalty proceedings, the assessee submitted before the Assessing Officer that it had voluntarily offered the amount of Rs.17,09,920/- for disallowance under Rule 8D read with Section 14A out of the expenses actually incurred by the assessee. Hence the assessee has neither concealed the particulars of such income. The assessee has maintained proper books of accounts in the normal course of business. These books of accounts were subject to tax audit by an independent Chartered Accountant. The audited balance sheet, P & L account, audit report and Form 3CD were duly filed during the assessment proceedings. No defect or deficiency was found or pointed out by the Assessing Officer in the books of account or in other documents, details or record filed by the assessee. The assessee has neither suppressed any income nor claimed any bogus or false expenditure. All the expenditure debited to the P & L account were genuine expenses incurred for the purpose of business during the normal course of

business. Therefore, the assessee submitted that the assessee discharged initial burden of proof on his shoulders. However, the Assessing Officer rejected the aforesaid explanation and was of the view that the offer of disallowance of Rs. 17,09,920/- was not voluntary by the assessee. The assessee offered the disallowance only when pointed out during the course of assessment about the application of Rule 8D read with Section 14A. Accordingly, the Assessing Officer imposed the penalty of Rs. 5,28,360/- u/s. 271(1)(c) of the Income Tax Act, 1961.

4. Being aggrieved the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee holding that the assessee furnished inaccurate particulars of income and was liable for penalty under Clause A of explanation 1 to Section 271(1)(c) of the Income Tax Act, 1961.

5. The AR submitted that the assessee maintained proper books of accounts and the same were subject to tax audit. The assessee submitted audited balance sheet, P & L account, audit report and Form 3CD were duly filed during the assessment proceedings. No defect or deficiency was found or pointed out by the Assessing Officer in the books of account or in other documents, details or record filed by the assessee. During the course of penalty proceedings, the assessee voluntarily offered the amount of

Rs.17,09,920/- for disallowance under Rule 8D read with Section 14A of the Act out of the expenses actually incurred by the assessee. Hence the assessee never concealed the particulars of such income and not claimed any bogus or false expenditure.

6. The DR relied upon the Penalty order as well as the CIT(A)'s order.

7. We have perused all the records and heard both the parties. It is pertinent to note that the assessee submitted audited balance sheet, P & L account, audit report and Form 3CD were duly filed during the assessment proceedings. There was no defect or deficiency was found or pointed out by the Assessing Officer in the books of account or in other documents, details or record filed by the assessee. During the course of penalty proceedings, the assessee voluntarily offered the amount of Rs.17,09,920/- for disallowance under Rule 8D read with Section 14A of the Act out of the expenses actually incurred by the assessee. Thus, the assessee has not furnished any inaccurate particulars or claimed any bogus expenditure. The Assessing Officer as well as the CIT(A) was incorrect in holding that there was inaccurate particulars furnished by the assessee.

8. In result, Appeal of the Assessee is allowed.

**The order is pronounced in the open court on 7th of January 2016.**

**Sd/-  
(R.S. SYAL)  
ACCOUNTANT MEMBER**

**Sd/-  
(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

Dated: 07/01/2016

*R. Naheed \**

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT NEW DELHI

		Date	
1.	Draft dictated on	07.01.2016	PS
2.	Draft placed before author	07.01.2016	PS
3.	Draft proposed & placed before the second member	.2016	JM/AM
4.	Draft discussed/approved by Second Member.		JM/AM
5.	Approved Draft comes to the Sr.PS/PS	07.01.2016	PS/PS

6.	Kept for pronouncement on		PS
7.	File sent to the Bench Clerk	07.01.2016	PS
8.	Date on which file goes to the AR		
9.	Date on which file goes to the Head Clerk.		
10.	Date of dispatch of Order.		