

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'D', NEW DELHI**

**BEFORE SHRI J. SUDHAKAR REDDY, ACCOUNTANT MEMBER
AND SHRI C.M.GARG, JUDICIAL MEMBER**

**ITA No. 6749/Del/2011
AY: 2008-09**

ACIT, Circle 2
Gurgaon

vs. PBS Foods P.Ltd.
A 122, Sanjay Gram Colony
Gurgaon

PAN: AADCP 6496 R

(Appellant)

(Respondent)

Appellant by : Sh.Ashis Mohanty, Sr.D.R.
Respondent by : None

ORDER

PER J.SUDHAKAR REDDY, A.M.

This is an appeal filed by the Revenue directed against the order of Ld.CIT(A)-2, Faridabad pertaining to the A.Y. 2008-09.

1.1. None appeared on behalf of the assessee despite issual of notice. There is no application for adjournment either. Under the circumstances we dispose of the case ex parte qua the assessee on merits after hearing the Ld.Sr.D.R. Shri Ashis Mohanty, Ld.Sr.D.R. on behalf of the Revenue.

2. Ld.CIT(A) at para 3.4 to 3.5 has considered the issue and held that, the assessee while preparing its computation of income, inadvertently failed to disallow 50% of the total donation debited by it in the Profit and Loss a/c as per the provisions of S.80G of the Act and that, when the assessee realised this computational mistake, necessary rectifications were made vide letter dt. 23.8.2010, much before the passing of the assessment order. He also recorded that the tax auditor in his report had specifically mentioned that only an amount of Rs.15 lakhs was admissible as deduction u/s 80G of the Act. Hence he held that a human error has crept into the computation of income. He applied the ratio of the decision of the Hon'ble

Supreme Court in the case of Price Waterhouse Coopers Ltd. vs. CIT(2012) 25 Taxman.com 400 (SC) and granted relief.

2.1. We do not find any infirmity in this order of the Ld.CIT(A).

3. Regarding charging of notional interest, the Ld.CIT(A) held that, a notional disallowance of Rs.1,80,000/-, as an assumption by the AO that, what was advanced by the assessee to M/s Skytech Aviation Ltd., was a loan and not business advance, does not warrant levy of penalty u/s 271(1)(c) of the Act on the ground that the assessee has furnished inaccurate particulars of income. We agree with this finding. Thus we uphold the order of the First Appellate Authority and dismiss this appeal by the Revenue.

4. In the result Revenue's appeal is dismissed.

Order pronounced in the Open Court on 30th November,2015.

Sd/-
(C.M.GARG)
JUDICIAL MEMBER

Sd/-
(J.SUDHAKAR REDDY)
ACCOUNTANT MEMBER

Dated: the 30th November, 2015

**manga*

Copy of the Order forwarded to:

1. Appellant;
2. Respondent;
3. CIT;
4. CIT(A);
5. DR;
6. Guard File

By Order

Asst. Registrar