

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C' NEW DLEHI**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER
AND
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No. 3738 & 3739/Del/2018
Assessment Year: 2009-10 & 2010-11**

DCIT, Circle-1,
Faridabad.

vs.

Indian Armour Systems P. Ltd.,
Universal Lane, 22 Ft. Road,
Village Dudhola, PO- Bhagola,
Palwal (Haryana)

PAN : AABC15575Q
(Appellant)

(Respondent)

Appellant by : Ms. Anima, Sr. DR
Respondent by: Sh. M.K. Gupta, CA

Date of hearing: 28/07/2021
Date of order : 28/07/2021

ORDER

PER K. NARASIMHA CHARY, J.M.

Aggrieved by the orders dated 14/03/2018 passed by the learned Commissioner of Income Tax (Appeals)-Faridabad ("Ld. CIT(A)") in the cases of Indian Armour System Pvt. Ltd. ("the assessee") for the assessment year 2009-10 and 2010-11, the Revenue filed these appeals, challenging the deletion of penalties u/s. 271(1)(c) of the Income-tax Act, 1961 ("the Act") of Rs.70,18,643/- and Rs.1,62,25,016/- respectively.

2. Brief facts, necessary for disposal of these appeals, are that by assessment orders u/s. 143(3) of the Act dated 19.12.2011 and

30.03.2013 for assessment years 2009-10 and 2010-11, the Id. Assessing Officer made additions of Rs.2,06,49,141/- and Rs.4,77,34,675/- respectively on account of disallowance of deduction u/s. 10B of the Income-tax Act, 1961 ('the Act') on the premise that the assessee failed to satisfy the prerequisites for allowability of deduction u/s. 10B of the Act that the undertaking should not be formed by transfer to a new business of machinery or plant previously used for any purpose; and that the industrial undertaking should not be formed by splitting up or reconstruction of a business already in existence. These additions stood confirmed in appeals before the first appellate authority. Based on these additions, the Assessing Officer initiated penalty proceedings u/s. 271(1)(c) of the Act and having received the orders of appeals, imposed penalties against the assessee for both the years to the tune of Rs.70,18,643/- and Rs.1,62,25,016/- for assessment years 2009-10 and 2010-11 respectively.

3. Aggrieved by such penalty orders, assessee preferred appeals before the Id. CIT(A), who deleted the penalties on the premise that the addition so made u/s. 10B of the Act stood deleted by Tribunal in quantum appeal No. 808/Del/2014 for A.Y. 2008-09 and 5647/Del/2014 for A.Y. 2009-10 filed by assessee. Learned CIT(A) further recorded a finding that once the claim of the assessee has been accepted by ITAT for these two assessment years, it is obvious that same is acceptable for the subsequent assessment years as well.

4. Having gone through the record in the light of undisputed facts, as noted above, we find no justification to interfere with the findings reached by the learned CIT(A) in the impugned orders. It is worthwhile to

note that once the addition, on the basis of which impugned penalty is imposed, is deleted by ITAT in quantum appeals for assessment years 2008-09 and 2009-10 holding the assessee eligible for deduction u/s. 10B of the Act, the very basis of imposition of impugned penalty stands collapsed. Therefore, we are of the considered opinion that the impugned orders do not suffer any illegality or irregularity while deleting the penalties imposed by Assessing Officer. Accordingly, the appeals of the Revenue are found devoid of merits and are dismissed.

5. In the result, the appeals of the Revenue are dismissed.

Order pronounced in the open court on this the 28th day of July,
2021. Sd/- Sd/-

(N.K. BILLAIYA)
ACCOUNTANT MEMBER

Dated: 28/07/2021

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(K. NARSIMHA CHARY)
JUDICIAL MEMBER