



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.356/CTK/2024
Assessment Year : 2014-15

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| Deputy Commissioner of Income Tax, Aayakar Bhavan Annexe Building, 4 th floor, Room No.410(b), Rajaswa Vihar, Bhubaneswar | Vs. | ARSS Developers Limited, Plot No.38, Sector-A, Zone- D, Mancheswar Industrial Estate, Bhubaneswar |
| PAN/GIR No.AABCI 6623 B | | |
| (Appellant) | .. | (Respondent) |

Assessee by : None
Revenue by : Shri Sanjay Kumar, CIT DR

Date of Hearing : 23/9/2024
Date of Pronouncement : 23/9/2024

ORDER

Per Bench

This is an appeal filed by the revenue against the order of the Id CIT(A), Bhubaneswar-2, dated 25.6.2024 in Appeal No.NFAC/2013-14/10055461 deleting the penalty levied u/s.271(1)(c) of the Act of Rs.3,08,11,278/- for the assessment year 2014-15.

2. Shri Sanjay Kumar, Id CIT DR appeared for the revenue. None represented on behalf of the assessee. However, an application for adjournment has been filed. Since, the matter can be decided in the

absence of the assessee, we reject the adjournment petition and proceed to dispose the appeal of the revenue.

3. The revenue has raised the following grounds:

"1. The order of the Id CIT (A) is erroneous both on the facts and in law.

2. Whether on the facts and circumstances of the case, the Id CIT(A) is justified in not considering the fact that the department has filed an appeal before the Hon'ble High court, Orissa in ITA No.06/2022 against the impugned quantum of addition in the assessee's case for the A.T. 2014015 and the same is pending for adjudication."

4. A perusal of the order of the Id CIT(A) shows that the Id CIT(A) has deleted the penalty levied under section 271(1)(c) of the Act on the ground that ITAT vide its order dated 23.12.2021 in assessee's case for the assessment year 2014-15 has deleted the quantum addition. Pendency of the revenue's appeal before the Hon'ble Jurisdictional High Court in the quantum addition does not give ground for reviving the penalty proceedings. This being so, as the quantum addition no more exists, we are of the view that the order of the Id CIT(A) does not call for any interference.

5. In the result, appeal of the revenue stands dismissed.

Order dictated and pronounced in the open court on 23/9/2024.

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 23/9/2024

B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Deputy Commissioner of Income Tax, Aayakar Bhavan Annexe Building, 4th floor, Room No.410(b), Rajaswa Vihar, Bhubaneswar
2. The respondent: ARSS Developers Limited, Plot No.38, Sector-A, Zone-D, Mancheswar Industrial Estate, Bhubaneswar
3. The CIT(A)- Bhubaneswar-2
4. Pr.CIT2, Bhubaneswar
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.Secretary
ITAT, CUTTACK

