**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

ITA No. 258 of 2015 (O&M)
Decided on : 18.09.2018

Pr. Commissioner of Income Tax, Jalandhar-I, Jalandhar

...... Appellant

Versus

Sh.Rohit Tandon Prop. M/s Prajna (India) Ltd.

...... Respondent

2. ITA No. 28 of 2016 (O&M)

Pr. Commissioner of Income Tax, Jalandhar-I, Jalandhar

...... Appellant

Versus

Sh.Rohit Tandon Prop. M/s Prajna (India) Ltd.

...... Respondent

3. ITA No. 45 of 2016 (O&M)

Pr. Commissioner of Income Tax, Jalandhar-I, Jalandhar

...... Appellant

Versus

Sh.Rohit Tandon Prop. M/s Prajna (India) Ltd.

...... Respondent

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AVNEESH JHINGAN**

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Present : Mr. Vivek Sethi, Senior Standing Counsel
for the appellant-revenue.

Mr.Rohit Sood, Advocate
for the respondent.

* * *

AVNEESH JHINGAN, J.

This order shall dispose of three appeals bearing ITA No.258 of 2015 and ITA Nos. 28 & 45 of 2016. All these appeals have been filed by the revenue against the order of the Tribunal deleting penalty under Section 271(1)(c) of the Income Tax Act, 1961 (for brevity, 'the Act'). Since the facts and the issues involved in the above said appeals are similar, hence, these are being disposed of by a common order.

2. The details of the assessment year and ITA numbers have been tabulated below :-

High Court ITA number	Tribunal ITA number	Assessment year	Amount of Penalty under Section 271(1)(c)
ITA No.258 of 2015	ITA No.55 (ASR) 2011 dated 05.03.2015	2006-07	₹ 12,10,524/-
ITA No.28 of 2016	ITA No.389 (ASR) 2012 dated 31.08.2015	2007-08	₹ 53,15,885/-
ITA No.45 of 2016	ITA No.390 (ASR) 2012 dated 31.08.2015	2008-09	₹ 45,22,088/-

3. For sake of convenience, the facts are being narrated from ITA No. 258 of 2015.

4. The revenue has filed the present appeal under Section 260A of the Act against the order of the Income Tax Appellate Tribunal, Amritsar (for brevity, 'the Tribunal') passed in ITA No.55 (ASR) 2011 dated 05.03.2015.

5. As per the appellant, the following substantial questions of law arises for consideration in the present appeal:-

(i) Whether on the facts and circumstances of the case the

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Hon'ble ITAT is right in law in allowing the appeal in favour of the assessee and deleting the penalty u/s 271(1)(c) of the Income Tax Act, 1961 without discussing the merits of the case?

(ii)Whether on the facts and circumstances of the case the Hon'ble ITAT is right in law in allowing the appeal in favour of the assessee and deleting the penalty u/s 271(1)(c) of the Income Tax Act, 1961 ignoring the fact that the Assessing Officer clearly established the default of the assessee by observing that the assessee had transferred its existing business to the new concern with sole intention to claim exemption u/s 10B?

(iii)Whether on the facts and circumstances of the case the Hon'ble ITAT is right in law in allowing the appeal in favour of the assessee and deleting the penalty u/s 271(1)(c) of the Income Tax Act, 1961 ignoring the fact that the penalty u/s 271(1)(c) has rightly been confirmed by the CIT(A)?

6. The assessee is a proprietor of M/s Prajna (India) Ltd., Jalandhar. The assessee was engaged in the business of manufacture and export of machine parts. During the assessment year 2006-07, the claim of exemption made by the petitioner under Section 10B of the Act was rejected by the Assessing Officer. Consequent of rejection of the claim, the penalty proceedings under Section 271(1)(c) of the Act were initiated for furnishing inaccurate particulars of income. The penalty was imposed vide order dated 13.10.2009.

7. Aggrieved of the penalty order, assessee preferred an appeal

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before the Commissioner of Income Tax (Appeals). The appeal was dismissed vide order dated 29.12.2010. Further, an appeal was filed before the Tribunal. The Tribunal set aside the disallowance of the deduction claimed under Section 10B of the Act and also set aside the penalty. Hence the present appeal.

8. The appeal filed by the revenue for the said assessment year regarding the issue of disallowance of deduction, the matter has been remanded back to the Assessing Officer to decide the issue afresh. In view of the remand of the quantum proceedings, the issue of penalty is also remanded back to the Assessing Officer to decide the same after deciding the issue of claim under Section 10B of the Act.

9. These appeals are disposed of accordingly.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

September 18, 2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No

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