

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'SMC-2' BENCH,  
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No. 2856 & 2857/DEL/2019  
[Assessment Year: 2013-14]

National Federation of Cooperative  
Sugar Factory Ltd  
Block C, 2<sup>nd</sup> Floor, Ansal Plaza  
August Kranti Marg, New Delhi

Vs.

The A.C.I.T.  
Circle 53(1)  
New Delhi

PAN: AAAAN 0096 J

[Appellant]

[Respondent]

Date of Hearing : 17.03.2020

Date of Pronouncement : 17.03.2020

Assessee by : None

Revenue by : Shri Gaurav Dudiya, Sr. DR

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:**

These two appeals by the assessee are preferred against the order of the Commissioner of Income Tax [Appeals] - 18, New Delhi dated 30.12.2016 and 19.04.2017 respectively, pertaining to assessment year 2010-11.

2. ITA No. 2856/DEL/2019 is against the quantum addition and ITA No. 2857/DEL/2019 is against levy of penalty u/s 271(1)(c) of the Income-tax Act, 1961 [hereinafter referred to as 'the Act'].

3. In the quantum appeal, the solitary grievance of the assessee is that the Id. CIT(A) erred in dismissing the appeal in limine on the ground that the appeal is barred by limitation.

4. I have carefully perused the order of the first appellate authority. In my considered opinion, technicality should not come in the way of dispensation of justice. The first appellate authority ought to have considered the delay, if any, in filing the appeal and should have decided the appeal on merits of the case.

5. In the interest of justice and fair play, I deem it fit to restore the entire appeal to the file of the Id. CIT(A). The Id. CIT(A) is directed to decide the appeal on merits of the

case after affording reasonable opportunity of being heard to the assessee.

6. Since the quantum appeal has been restored to the file of the ld. CIT(A), I further direct the ld. CIT(A) to decide the levy of penalty u/s 271(1)(c) of the Act after affording reasonable opportunity of being heard to the assessee.

7. In the result, both the appeals filed by the assessee in ITA Nos. 2856 and 2857/DEL/2019 are treated as allowed for statistical purposes.

The order is pronounced in the open court on 17.03.2020.

Sd/-

**[N.K. BILLAIYA]**  
**ACCOUNTANT MEMBER**

Dated: 17<sup>th</sup> March, 2020.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	