




Sr. No.	Date	Orders
		<p data-bbox="450 197 1149 336">30-01-2006 Present: Mr.Sanjeev Sabharwal for appellant. Mr.M.P.Rastogi for respondent.</p> <p data-bbox="450 421 612 465"><u>ITA.64/06</u></p> <p data-bbox="600 555 708 600">Admit.</p> <p data-bbox="450 645 1430 779">The following two substantial questions of law arise for consideration and are hereby formulated:</p> <ol data-bbox="450 824 1385 1639" style="list-style-type: none"> <li data-bbox="450 824 1385 1124">1. Whether the Ld. ITAT was right in deleting penalty u/s 271(1)(c) of the Income Tax Act, 1961 on the ground that the total income of the assessee has been assessed at a minus figure/loss? <li data-bbox="450 1249 1385 1639">2. Whether the Ld. ITAT was justified in holding that the judgments in Prithipal Singh's case (183 ITR 69 and 249 ITR 670) will apply even after insertion of Explanation 4 to Section 271(1)(c) with effect from 1.4.1976? <p data-bbox="437 1774 1423 1989">Similar questions were examined by a Division Bench of this Court in "<u>CIT vs. Aditya Chemicals Ltd. & Ors.</u>" (ITA 205/2001) and connected matters and answered in favour of the</p> <p data-bbox="437 2020 600 2065"><u>ITA.64/06</u></p>



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		<p data-bbox="454 197 954 241">Revenue in the following words :</p> <p data-bbox="571 286 1310 638">"18. Hence, answering question 1 in favour of the revenue, we hold that the ITAT was <u>not</u> right in deleting the penalty imposed under Section 271(1)(c) of the Income Tax Act, 1961 merely on the ground that the total income of the assessee has been assessed at a minus figure/loss. Question 2 has already been answered in the negative by us.</p> <p data-bbox="563 683 1310 1545">19. In all these appeals the ITAT decided against the Revenue and in favour of the assessee without going into the merits of the question in each case so as to return a positive finding of fact that the assessee in each case had "concealed the particulars of his income or furnished inaccurate particulars of such income." Nor did it examine the quantum of penalty in each case. The ITAT decided the appeals before it on the understanding that where there was a returned <u>loss</u> and a reduced <u>loss</u> was assessed there could be no question of imposition of penalty under Section 271(1)(c) of the Act. This understanding, we have indicated above, does not hold good for the period between the said 1976 and 2003 amendments. This being the position, answering the questions as indicated above and allowing all the appeals, we remand all these cases to the ITAT for disposal of merits. No costs."</p> <p data-bbox="435 1597 1417 1973">In the light of the above and for the reasons stated in the judgment in Aditya Chemicals(supra), the questions stand answered similarly in the present case also and the matter remanded to the Tribunal for fresh hearing and disposal on merits in accordance with law.</p> <p data-bbox="432 2011 593 2056"><u>ITA.64/06</u></p>



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		<p data-bbox="454 201 1348 336">The Tribunal shall issue fresh notice to the parties before hearing the matter.</p> <p data-bbox="598 369 1173 425">DASTI to counsel for both the parties.</p> <p data-bbox="1125 548 1372 649">(T.S/THAKUR) JUDGE</p> <p data-bbox="1085 694 1484 817"> (B.N.CHATURVEDI) JUDGE</p> <p data-bbox="454 772 726 851">January 30, 2006 RS/</p> <p data-bbox="438 1848 606 1892"><u>ITA.64/06</u></p>