

IN THE INCOME TAX APPELLATE TRIBUNAL
"C" Bench, Mumbai
Before Shri B.R. Baskaran (AM) & Shri Pawan Singh (JM)

I.T.A. No. 5483/Mum/2014
(Assessment Year 2002-03)

ITO (International Taxation)-1(1) Room No. 015, Ground Floor Scindia House Ballard Pier Mumbai-400 038. (Appellant)	Vs.	Mr. Praful Chandaria Through his AR Mr. Joykrishna H. Dalia C/o. Mukesh M. Shah & Co., CAs 1 st Floor, H.K. House Off. Ashram Road Ahmedabad-380 009. (Respondent)
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PAN No. Not allotted

Assessee by	None
Department by	Shri C.W. Angolkar
Date of Hearing	10.11.2016
Date of Pronouncement	10.11.2016

ORDER

Per B.R. Baskaran (AM) :-

The appeal filed by the Revenue is directed against the order dated 28.2.2014 passed by the learned CIT(A)-10, Mumbai deleting the penalty of ₹ 3.58 crores levied by the Assessing Officer u/s. 271(1)(c) of the Act for A.Y. 2002-03.

2. None appeared on behalf of the assessee. However, learned Departmental Representative submitted that the Assessing Officer had levied penalty on the amount of ₹ 11.71 crores assessed by him under the head 'income from other sources' in respect of the amount received by the assessee pursuant to call option agreement. Learned Departmental Representative submitted that the Tribunal has decided this issue in favour of the assessee by holding that the above said amount is not assessable as per Indo-Singapore DTAA. In the result, the impugned addition has been deleted by the Tribunal

in assessee's case, vide its order dated 26.8.2016 passed in ITA No. 4313/Mum/2011 and 4717/Mum/2013 (2016) 73 taxmann.com 14).

3. Since the addition, on which the impugned penalty was levied, has been set aside by the Tribunal the penalty order does not have legs to stand on its own. On this reasoning, we confirm the decision rendered by the learned CIT(A).

4. In the result, appeal filed by the Revenue is dismissed.

Order has been pronounced in the Court on 10.11.2016

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Sd/-
(B.R.BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 10/11/2016

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai

PS