

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "E", MUMBAI**

BEFORE SHRI B.R.BASKARAN (AM) AND SHRI RAM LAL NEGI (JM)

**ITA No 5712/MUM/2015
Assessment Year: 2006-07**

The Dy. CIT. C.C.3(4), Central Range-3, Room No. 401, 4 th Floor, Aayakar Bhavan, M.K.Road, Mumbai- 400 020.	Vs.	Shri. Ziauddin A. Siddique, 401, Alyce Villa, Opp. Almeda Park, Road No. 5, Bandra (W), Mumbai- 400 050. PAN:- AHLPS0554P
(Appellant)		(Respondent)

Appellant by : Captain Pradeep Arya.
Respondent by : Shri. Rajesh Sanghvi.

Date of Hearing: 27/09/2016
Date of Pronouncement: 27/09/2016

ORDER

PER RAM LAL NEGI, JM

This appeal has been preferred by the assessee against order dated 09/09/2015 passed by the Ld. CIT(Appeals)-51 Mumbai for the Asst. Year 2006-07 whereby the Ld. CIT(A) deleted the penalty levied u/s 271(1)(c) of the Income Tax Act, 1961 (in short 'the Act').

2. The revenue has challenged the impugned order passed by the Ld. CIT(A) on the following effective grounds of appeal:-

1. *"On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the penalty without appreciating that the penalty proceedings were correctly initiated as per section 271(1)(c) of the Act."*

2. *“On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the penalty without appreciating the fact that at the time of levy of penalty, addition was confirmed and as on date appeal is still pending before the Hon’ble ITAT.”*
3. At the very outset the Ld. Counsel for the assessee submitted that ITAT has decided the quantum appeal ITA No. 5183/Mum/2011 for the Asst. year 2006-07 in favour of the assessee therefore, the present appeal is liable to be set aside. The Ld. Departmental Representative did not controvert the contention of the assessee.
4. We have heard the rival submissions and also perused the material placed on record including the quantum appeal order passed by the coordinate Bench for the assessment year 2006-07. We notice that vide order dated 9.9.2016 the coordinate Bench has decided the quantum appeal filed by the revenue in favour of the assessee by confirming the deletion made by the Ld. CIT(A). Since, the quantum appeal has been decided in favour of the assessee, the penalty order does not survive. We therefore, dismiss both the grounds of the appeal of the revenue.
5. In the result appeal filed by the revenue for the Asst. year 2006-07 is dismissed.

Order pronounced in the open court on 27th September, 2016

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

Sd/-
(RAM LAL NEGI)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated: 27/09/2016

आदेश प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / **ITAT, Mumbai**

Pramila