

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'D' अहमदाबाद ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, AHMEDABAD**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER
& SMT. MADHUMITA ROY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 1463/Ahd/2017

(निर्धारण वर्ष / Assessment Year : 2009-10)

DCIT, Circle-1(2), 2 nd Floor, Aaykar Bhawan, Race Course Circle, Vadodara	बनाम/ Vs.	Shri Jagdishbhai P Patel Patel Falia, Jambuva, Vadodara.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ALB PP5 617 L		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Smiti Samant, SR. DR
प्रत्यर्थी की ओर से / Respondent by:	Mehul K. Patel, AR

सुनवाई की तारीख / Date of Hearing	19/03/2019
घोषणा की तारीख /Date of Pronouncement	26/03/2019

आदेश/O R D E R

PER AMARJIT SINGH - AM:

The solitary ground of appeal of the Revenue is directed against the order of the Ld. CIT(A) for Vadodara in deleting the penalty levied u/s. 271(1)(c) of the Act to the amount of Rs. 43,69,240/-.

2. At the outset the Ld. Counsel has brought to our notice that Coordinate Bench of ITAT has set aside the order of the Ld. CIT(A) made u/s. 263 of the Act and restore the order of AO made u/s. 143(3) of the Act. It is also brought to our notice that the Coordinate Bench of the ITAT vide ITA No. 18/Ahd/2014 dated 01.05.2017 has also deleted the quantum petition made by the AO vide assessment order u/s. 143(3) r.w.s. 263 of the Act on 18.02.2015.

3. With assistance of the Ld. Representatives we have gone through the above cited orders of the Coordinate Bench of ITAT and notice that the quantum addition on the basis of which the impugned penalty was levied had been deleted by the aforesaid order of the ITAT. Ld. DR was fair enough to could not dispute the aforesaid material facts.

4. In the light of the aforesaid facts and circumstances we are of the view that once the quantum additions were deleted on the basis of which the impugned penalty was levied, the penalty levied has become infructuous. Therefore, this appeal of the Revenue is not maintainable and the same stand dismissed.

5. In the result, appeal of the Revenue is dismissed.

This Order pronounced in Open Court on	26/03/2019
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Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

Ahmedabad: Dated 26/03/2019

Tanmay

True Copy

आदेश की प्रतिलिपि अग्रहित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।