

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

[Before Shri Pramod Kumar, Vice President]

ITA No. 1167/Ahd/2015
Assessment Year : 2008-09

Late Khusbuben R ManwaniAppellant
*L/h. Bhojraj P Luhana,
C/o. Jay Ambey Trading Co.,
19, Market Yard, Sardar Gunj, A
Anand – 388 001
[PAN : AOBPM 7177 H]*

Vs.

Income Tax OfficerRespondent
Ward-1, Anand

Appearances by:

Arti N Shah, for the applicant
Arvind Kumar, for the respondent

Date of concluding the hearing : 20.02.2019
Date of pronouncing the order : 01.04.2019

O R D E R

1. By way of this appeal, the assessee appellant has challenged learned CIT(A)'s order dated 27th February 2015, upholding penalty of Rs.3,03,171/- imposed upon the appellant under section 271(1)(c) of the Income-tax Act, 1961, for the assessment year 2008-09.

2. When the appeal was called out for hearing, learned representatives fairly accepted that the issue in appeal is covered, in favour of the assessee, by several decisions of this Tribunal, including in the cases of Srikishan Agarwal vs. DCIT [(2016) 48 ITR (T) 548 (Jaipur)] and ITO vs. VP Sharma [(2016) 154 Taxman 34 (Del) Mag], inasmuch as penalty under section 271(1)(c) cannot be imposed on the legal heir. Learned Departmental Representative nevertheless relied upon the stand of the authorities below.

3. I have heard the rival contentions, perused the material on record and duly considered applicable legal position in the light of facts on record.

4. I find that the assessee, late Khusbuben R Manwani, had passed away on 04.09.2009, whereas the impugned penalty order was framed on the legal heir on

09.12.2013. Clearly, therefore, the impugned penalty order is inherently bad in law, and the judicial precedents relied upon by the appellant support that position. I, therefore, delete the impugned penalty of Rs.3,03,171/-.

5. In the result, the appeal is allowed in the terms and for the reasons set out above. Pronounced in the open court today on the 1st April, 2019.

Sd/-

**Pramod Kumar
(Vice President)**

Ahmedabad, the 1st day of April, 2019

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Copies to: (1) The appellant
(2) The respondent
(3) Commissioner
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

TRUE COPY

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad