

आयकर अपीलिय अधिकरण पुणे न्यायपीठ "बी" पुणे में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "B", PUNE**

सुश्री सुषमा चावला, न्यायिक सदस्य एवं श्री अनिल चतुर्वेदी, लेखा सदस्य के समक्ष  
**BEFORE MS. SUSHMA CHOWLA, JM AND SHRI ANIL CHATURVEDI, AM**

आयकर अपील सं. / ITA No.722/PUN/2018  
निर्धारण वर्ष / Assessment Year : 2011-12

Shri Naresh T. Wadhvani,  
Office No.9, Umed Bhavan,  
Canara Bank, Pimpri,  
Pune – 411018

.... अपीलार्थी/Appellant

PAN: AABPW7203Q

Vs.

The Dy. Commissioner of Income Tax,  
Circle 8, Pune

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Shri V.L. Jain

प्रत्यर्थी की ओर से / Respondent by : Shri M.K. Verma

सुनवाई की तारीख / <b>Date of Hearing : 08.07.2019</b>	घोषणा की तारीख / <b>Date of Pronouncement: 17.07.2019</b>
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**आदेश / ORDER**

**PER SUSHMA CHOWLA, JM:**

The appeal filed by assessee is against order of CIT(A)-6, Pune, dated 09.02.2018 relating to assessment year 2011-12 against penalty levied under section 271(1)(c) of the Income-tax Act, 1961 (in short 'the Act').

2. The assessee has raised the following grounds of appeal:-

1. *The learned CIT(A) has erred in law and on facts in confirming the jurisdiction to levy penalty when the notice u/s 274 did not specify the charge for levy of penalty of Rs. 1,19,581/- u/s 271(1)(c) of the Act.*

2. *The learned CIT(A) has further erred in law and on facts in confirming a penalty on Rs.1,19,581/- u/s 271(1)(c) of the Act for an addition on account of a computational error in indexation of capital gains.*
3. The ground of appeal No.1 raised by assessee is not pressed and hence the same is dismissed as not pressed.
4. The issue raised in ground of appeal No.2 is against penalty levied on addition of ₹ 1,19,581/-.
5. Briefly, in the facts of the case, the assessee had declared income from capital gains but had wrongly adopted the indexed cost of acquisition for financial year 2006-07 instead of applying indexed cost for assessment year 2010-11. Consequently, sum of ₹ 85 lakhs was disallowed and added to the income of assessee. The Assessing Officer initiated penalty proceedings for furnishing inaccurate particulars of income to the extent of ₹ 85 lakhs. The assessee was held to have furnished inaccurate particulars of income and penalty under section 271(1)(c) of the Act was levied.
6. The CIT(A) has restricted said penalty to addition of ₹ 1,19,581/- in turn, relying on the ratio laid down by the Hon'ble Delhi High Court in the case of CIT Vs. Zoom Communication reported in 327 ITR 510 (Del).
7. The assessee is in appeal against the order of CIT(A).
8. The learned Authorized Representative for the assessee stressed that there is no merit in the aforesaid levy of penalty as mistake had occurred in applying the correct indexed rate. There is merit in the plea of assessee especially where the levy of penalty was restricted to addition of ₹ 1,19,581/-.

The assessee had under a bonafide mistake not computed the correct indexed cost of acquisition. Hence, we hold that it is not fit case for levy of penalty and the same is thus, directed to be deleted. The ground of appeal No.2 raised by assessee is thus, allowed.

9. In the result, the appeal of assessee is allowed.

Order pronounced on this 17<sup>th</sup> day of July, 2019.

**Sd/-**  
**(ANIL CHATURVEDI)**  
लेखा सदस्य / ACCOUNTANT MEMBER

**Sd/-**  
**(SUSHMA CHOWLA)**  
न्यायिक सदस्य / JUDICIAL MEMBER

पुणे / Pune; दिनांक Dated : 17<sup>th</sup> July, 2019.

GCVSR

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT(A)-6, Pune;
4. The Pr.CIT-5, Pune;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "बी" / DR 'B', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune