

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH, AHMEDABAD**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER &  
Ms. MADHUMITA ROY, JUDICIAL MEMBER**

ITA No.2509/Ahd/2017  
(Assessment Year :2009-10)

Shri Utpal Rajendra Barot,  
6, Someshwar Bunglow Vibhag – 2,  
Opp: Star Bazar, Satellite,  
Ahmedabad.

Vs.

ITO,  
Ward – 3(3)(5),  
Ahmedabad.

[PAN No.ACUPB 2821 Q]  
(Appellant)

..

(Respondent)

**Appellant by :** Shri D. K. Parikh, A.R.  
**Respondentby:** Shri Shiv Sevak, Sr. D.R.

**Date of Hearing** 15/07/2019  
**Date of Pronouncement** 23/07/2019

ORDER

**PER Ms. MADHUMITA ROY -JM:**

The instant appeal filed by the assessee is directed against the order dated 11.09.2017 passed by the Commissioner of Income Tax (Appeals) – 7, Ahmedabad whereby and whereunder the penalty levied under section 271(1)(c) of the Income Tax Act, 1961 (hereinafter referred as to “the Act”) dated 30.03.2016 for Assessment Year 2009-10 by the ITO, Ward-3(3)(5), Ahmedabad has been confirmed.

2. At the time of hearing of the instant appeal the Learned Counsel appearing for the assessee submitted before us that the quantum appeal arising out of the assessment order dated 28.03.2013 has been deleted by the Co-ordinate Bench in appeal preferred by the assessee being ITA No.843/Ahd/2013 for A.Y. 2009-10 by order dated 08.08.2018 copy whereof has also been submitted before us. Since the quantum addition has been deleted by the Co-ordinate Bench, the penalty proceedings itself become infructuous as

submitted by the Learned AR. The Learned DR, however, has not made any serious objection to the admitted position of the matter as contended by the Learned AR.

3. Heard the respective parties, perused the relevant materials available on record. We have also perused the order passed by the Co-ordinate Bench in ITA No.843/Ahd/2013. We find since the quantum has been deleted the penalty as become infructuous and hence this appeal is dismissed as infructuous.

4. In the result, assessee's appeal is dismissed as infructuous.

**This Order pronounced in Open Court on**

**23/07/2019**

Sd/-  
(WASEEM AHMED)  
**ACCOUNTANT MEMBER**

Sd/-  
( Ms. MADHUMITA ROY)  
**JUDICIAL MEMBER**

Ahmedabad; Dated 23/07/2019

*Priti Yadav, Sr.PS*

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-7, Ahmedabad.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad