

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'SMC' अहमदाबाद ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“SMC” BENCH, AHMEDABAD**

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER &**  
**SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 536/Ahd/2018

(निर्धारण वर्ष / Assessment Year : 2012-13)

<b>Shri Jitendra Ambalal Patel</b> C/o. A. P. Sandesara & Co. Chartered Accountants 104, Maurya Complex, Near C. U. Shah College, Off. Ashram Road, Ahmedabad	<b>बनाम/</b> Vs.	<b>Income Tax Officer</b> Ward-3, Mehsana
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ABUPP1777G</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri A. P. Sandesara, A.R.
प्रत्यर्थी की ओर से / Respondent by :	Shri Virender Singh, Sr.D.R.

सुनवाई की तारीख / Date of Hearing	08/08/2019
घोषणा की तारीख /Date of Pronouncement	11/09/2019

**आदेश/ORDER**

**PER PRADIP KUMAR KEDIA - AM:**

The captioned appeal has been filed at the instance of the assessee against the order of the CIT(A), Gandhinagar ('CIT(A)' in short), dated 19.12.2017 arising in the penalty order dated 28.03.2016 passed by the Assessing Officer (AO) u/s. 271(1)(c) of the Income Tax Act, 1961; (the Act) concerning assessment year 2012-13.

2. The assessee by way of its grounds of appeal has challenged the action of the CIT(A) in confirming the penalty of Rs.2,50,000/- under s. 271(1)(c) of the Act.

3. When the matter was called for hearing, the learned AR for the assessee submitted that the quantum additions/disallowances giving rise to the imposition of penalty in appeal has been reversed by the co-ordinate bench of Tribunal in ITA No. 649/Ahd/2015, order dated 04.03.2019 in the quantum proceedings.

4. In view of the fact that the quantum additions/disallowances itself do not survive and ceased to exist having regard to the appellate order of the ITAT in quantum proceedings, the very basis for imposition of penalty under s. 271(1)(c) does not survive any more. Therefore, the action of the AO towards imposing penalty is set aside and cancelled.

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

**This Order pronounced in Open Court on 11/09/2019**

Sd/-  
(RAJPAL YADAV)  
JUDICIAL MEMBER  
Ahmedabad: Dated 11/09/2019

Sd/-  
(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अग्रेषित / 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.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण, अहमदाबाद ।