

आयकरअपीलीयअधिकरण,सुरतन्यायपीठ,सुरत
IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT

श्रीसी.एम.गर्ग,न्यायिकसदस्यतथाश्रीओ.पी.मीना, लेखासदस्यकेसमक्ष
BEFORE SHRI C.M.GARG, JUDICIAL MEMBER
AND SHRI O.P.MEENA, ACCOUNTANT MEMBER

आ.अ.सं./I.T.A No.677/Ahd/2015

निर्धारणवर्ष/Assessment Year : 1999-2000

Kanchanlal Natverlal Rana 6/42, 90/91, 3 rd Floor Sutar Falia, Galemadi, Surat-395003 PAN – AGLPR1189E	Vs. Income Tax Officer, Ward -6(2), Surat
अपीलार्थीAppellant	प्रत्यर्थी/Respondent

निर्धारितकीओरसे /Assessee by	Shri Vijay Mehta, CA
राजस्वकीओरसे /Revenue by	Shri B.P.K. Panda, Sr. D.R.

सुनवाईकीतारीख/ Date of hearing:	12.01.2018
उद्घोषणाकीतारीख/Pronouncement on	12.01.2018

आदेश /ORDER

PER O. P. MEENA, ACCOUTANT MEMBER:

1. This appeal by the Assessee is directed against the order dated of 09.01.2015 Commissioner of Income-tax (Appeals)-1, Surat (in short CIT(A)) and relates to assessment year 1999-2000, in confirming penalty of Rs. 4,85,311/- under section 271 (1) (C) of the Act.
2. At the out set of hearing before us, the learned Counsel for the assessee submitted that the issue on which penalty was levied has been set-aside by the Tribunal the file of AO for fresh consideration, vide ITA No. 1506/Ahd/2013 dated 01.08.2016.

3. We have heard the rival submissions. We find that the issue of capital treated as unexplained cash credit on which penalty levied stands to set aside to the file of the AO for fresh decision by the order of Tribunal (supra). Thus, the issue on which penalty is levied is no longer survived; therefore, penalty levied is not maintainable as of now. Accordingly, we delete the penalty so levied subject to condition that the AO is free to re-initiate penalty proceedings under section 271(1)(c) of the Act, on finalization of set-aside assessment proceedings, if the circumstances so warrant or he thinks it fit.

3. In the result, the appeal of the assessee stands allowed.

Order was pronounced in the open court on 12.01.2018.



Sd/-
(C.M.GARG)
JUDICIAL MEMBER

Sd/-
(O.P. MEENA)
ACCOUNTANT MEMBER

Dated: - 12.01.2018

Copy to: - Appellant, Respondent, CIT(A), Pr. CIT, DR, Surat

By Order

Assistant Registrar
सहायक पंजीकार
आयकर अपीलीय अधिकरण
सुरत न्यायपीठ, सुरत.

