

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "G", MUMBAI**

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND
SHRI N.K. PRADHAN, HON'BLE ACCOUNTANT MEMBER**

ITA NO. 74/MUM/2019 (A.Y: 2010-11)

Income Tax Officer (E) – 2(3) Room No. 513, 5 th Floor Piramal Chambers, Lalbaug Mumbai – 400 012	v.	M/s. Shri Ram Nagar Trust No.1 315G, New Charni Road Charni Road, Mumbai – 400 004 PAN: AAATRO427J
(Appellant)		(Respondent)

Assessee by : Shri Raturaj H. Gurjar

Department by : Shri Udaya B. Jakke

Date of Hearing : 30.01.2020

Date of Pronouncement : 23.10.2020

ORDER

PER C.N. PRASAD (JM)

1. This appeal is filed by the revenue against the order of the Learned Commissioner of Income Tax (Appeals) – 1, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 17.10.2018 for the Assessment Year 2010-11 in deleting the penalty levied u/s. 271(1)(c) of the Act.

2. At the outset, Learned Counsel for the assessee submitted that in this case addition/disallowance made in the quantum assessment has been deleted by the Tribunal and the appeal filed by the Revenue is also dismissed by the Hon'ble High Court in Income Tax Appeal No. 1160 of 2017 dated 18.06.2019. Copy of the order is placed on record.

3. Ld. DR fairly submitted that quantum has been deleted by the Tribunal and appeal of the revenue was dismissed by the Hon'ble High Court.

4. We have heard the rival submissions, perused the orders of the lower authorities and the decision of the Hon'ble Jurisdictional High Court in quantum proceedings. On a perusal of the orders of the lower authorities and the decision of the Hon'ble High Court we find that the disallowance i.e., claim for accumulation u/s. 11(2) denied in the assessment proceedings by the Assessing Officer has been allowed by the Tribunal which was sustained by the Hon'ble High Court by rejecting the appeal of the Revenue. We also find that the Ld.CIT(A) deleted the penalty levied u/s. 271(1)(c) of the Act since the Tribunal had deleted the disallowance made in quantum proceedings. When once the addition/disallowance made in quantum proceedings are deleted the

question of levy of penalty does not arise. Thus, we do not find any infirmity in the order passed by the Ld.CIT(A). Grounds raised by the revenue are rejected.

5. In the result, appeal of the Revenue is dismissed.

6. Before parting, we noticed that this appeal was heard on 30.01.2020 and the pronouncement is delayed due to lockdown in view of COVID-19 pandemic. The pronouncement is as per Rule 34(5) of Income Tax Appellate Tribunal Rules, 1963 and Hon'ble Bombay High Court decision vide orders dated 15.04.2020 and 15.06.2020 extending the time bound periods specified by Hon'ble High Court by removing the period under lockdown. This aspect was also dealt with in detail by the Mumbai Bench of the Tribunal in case of DCIT v. JSW Steel Vide order dated 14.05.2020 in ITA.No. 6264/Mum/2018.

Order pronounced on 23.10.2020 as per Rule 34(4) of ITAT Rules by placing the pronouncement list in the notice board.

Sd/-
(N.K. PRADHAN)
ACCOUNTANT MEMBER
Mumbai / Dated 23/10/2020
Giridhar, Sr.PS

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum