

आयकर अपीलिय अधिकरण

मुंबई पीठ "एफ", मुंबई

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "F", MUMBAI

श्री प्रमोद कुमार, उपाध्यक्ष एवं

श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष

BEFORE SHRI PRAMOD KUMAR, VICE PRESIDENT &  
SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आअसं. 3560/मुं/2019 (नि.व. 2006-07)

ITA NO.3560/MUM/2019(A.Y.2006-07)

Deputy Commissioner of Income-tax (IT)-3(3)(2),  
16<sup>th</sup> Floor, Room No.1634,  
Air India Building, Nariman Point,  
Mumbai 400 021

..... अपीलार्थी /Appellant

बनाम Vs.

Venu Raman Kumar,  
Flat No.2, Hermes House-III,  
Worli Sea Face, Mumbai 400 025  
PAN: ABAPK9122E

..... प्रतिवादी/Respondent

Assessee by : None  
Revenue by : Shri Pratap Singh

सुनवाई की तिथि/ Date of hearing : 11/02/2021  
घोषणा की तिथि/ Date of pronouncement : 23/02/2021

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

This appeal by the Revenue is directed against the order of Commissioner of Income Tax Appeals-57, Mumbai [in short 'CIT(A)'] dated 11/03/2019 for the assessment year 2006-07.

2. We have heard the submissions made by Id. Departmental Representative and have perused the documents on record. The Assessing Officer vide assessment order dated 31/03/2015 passed under section 143(3) r.w.s. 147 of the Income Tax Act, 1961 ( in short 'the Act'), made addition on account of undisclosed income and also initiated penalty proceedings under section 271(1)(c) of the Act . Thereafter, the Assessing Officer vide order dated 30/09/2015 levied penalty @300% of the tax sought to be evaded. The assessee filed appeal against the penalty order. The CIT(A) deleted the penalty as in the quantum proceedings, the entire quantum addition was deleted by the First Appellate Authority. The Revenue filed appeal in ITA No.2977/Mum/2018 before the Tribunal assailing the order of CIT(A) in deleting the addition in quantum proceedings. The Tribunal vide order dated 19/06/2019 dismissed the appeal of Revenue. Once substratum for levy of penalty has eroded, the penalty proceedings does not survive. We concur with the findings of CIT(A) and uphold the same. The appeal of the Revenue is without any merit, hence, the same is dismissed.

3. In the result appeal by the Revenue is dismissed.

Order pronounced in the open court on Tuesday the 23rd day of February, 2021.

Sd/-

(PRAMOD KUMAR)

उपाध्यक्ष /VICE PRESIDENT

मुंबई/ Mumbai, दिनांक/Dated /02/2021

Vm, Sr. PS (O/S)

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,  
Mumbai
6. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**