

**आयकर अपीलीय अधिकरण “एच” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“H” BENCH, MUMBAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**(Hearing Through Video Conferencing Mode)**

आयकरअपील सं./ I.T.A. No.6781/Mum/2019  
(निर्धारण वर्ष / Assessment Year: 2006-07)

<b>ACIT-19(2)</b> R.No.207, 2 <sup>nd</sup> Floor Matru Mandir, Tardeo Mumbai – 400 007	<b>बनाम/ Vs.</b>	<b>Shri Kunal N. Shah</b> 510, Gitanjali Garden 68E, Nepean Sea Road Mumbai – 400 006
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. <b>AAIPB-6866-F</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	Ms. Aarti Vissanji – Ld. AR
<b>Revenue by</b>	:	Shri Gurbinder Singh-Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	20/04/2021
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	03/05/2021

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by revenue for Assessment year [AY in short] 2006-07 contest the order of Ld. Commissioner of Income Tax (Appeals)-29, Mumbai [in short CIT(A) ] dated 21/08/2019 which has deleted penalty u/s 271(1)(c) for Rs.103.18 Lacs as levied by Ld. AO vide penalty order dated 12/06/2015.

2. We have carefully heard the rival submissions and perused relevant material on record. Our adjudication to the subject matter of appeal would be as given in succeeding paragraphs.

3. The facts leading to imposition of penalty are that the assessee was assessed for the year u/s 143(3) r.w.s. on 147 on 18/03/2014 wherein it was saddled with addition of Rs.613.09 Lacs u/s 69A, being undisclosed income in bank account held by the assessee in HSBC Bank, Geneva, Switzerland. Consequently, penalty proceedings were initiated u/s 271(1)(c) which culminated into imposition of impugned penalty of Rs.103.18 Lacs by Ld. AO vide penalty order dated 12/06/2015. Aggrieved the assessee contested the penalty before Ld. CIT(A).

4. During appellate proceedings, it transpired that the quantum addition u/s 69A as sustained by Ld. CIT(A) stood deleted by Tribunal in ITA Nos.6067 & 6068/Mum/2014 order dated 30/10/2018. The Ld. CIT(A) opined that since quantum additions stood deleted, the penalty would have no legs to stand as per the decision of Hon'ble Supreme Court in K.C.Builders (146 Taxmann.com 481). Aggrieved, the revenue is in further appeal before us.

5. Before us, it is undisputed position that quantum additions against which penalty was levied, has already been deleted by the Tribunal. In such a case, as rightly noted by Ld. CIT(A), the impugned penalty would not survive. Therefore, we find no reason to interfere in the impugned order.

6. The appeal stands dismissed.

*Order pronounced on 3<sup>rd</sup> May, 2021.*

**Sd/-**

**(Mahavir Singh)**

**उपाध्यक्ष / Vice President**

**Sd/-**

**(Manoj Kumar Aggarwal)**

**लेखा सदस्य / Accountant Member**

मुंबई Mumbai; दिनांक Dated : 03.05.2021  
*Sr.PS, Jaisy Varghese*

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**