

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ - इंदौर

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE - BENCH**

[Conducted through Virtual Court]

[Ahmedabad-Indore]

**BEFORE SHRI RAJPAL YADAV, VICE-PRESIDENT
AND
SHRI MANISH BORAD, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No.816/Ind/2019

निर्धारण वर्ष/Asstt. Year: 2014-2015

Manish Govind Agrawal (HUF) 482, Goyal Nagar Indore.	Vs.	DCIT, Cir.1(2) Ahmedabad.
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आयकर अपील सं./ ITA No.817/Ind/2019

निर्धारण वर्ष/Asstt. Year: 2014-2015

Govind Harinarayan Agrawal (HUF) 482, Goyal Nagar Indore.	Vs.	DCIT, Cir.1(2) Ahmedabad.
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Girish Agrawal Ms.Nisha Lahoti, and Shri Vijay Bansal, ARs.
Revenue by :	Shri (Dr.) Harshi Bari, Sr.DR

सुनवाई की तारीख/Date of Hearing : 05/07/2021

घोषणा की तारीख/Date of Pronouncement: 06 /07/2021

आदेश/ORDER

PER RAJPAL YADAV, VICE-PRESIDENT

These two appeals are at the instance of above assessee against separate orders of Id.CIT(A)-1, Indore of even dated i.e. 14.6.2019 passed for the Asstt.Year 2014-15 under section 271(1)(c) of the

Income Tax Act, 1961. Since common grievance is raised in both the appeals, for the sake of convenience, we dispose of both the appeals by this consolidated order.

2. Only grievance raised by both the assesseees is that the Id.CIT(A) has erred in confirming the orders of the Id.AO imposing penalty under section 271(1)(c) of the Act.

3. Before taking up the matter on merit, it is noticed that the Id.representative for the assessee has filed an application stating that quantum, against which penalty under section 271(1)(c) of the Act was imposed, has since been deleted by the ITAT vide order in ITA No.60 and 61/Ind/2019 dated 28.6.2021, the impugned penalty imposed by the Revenue authorities do not have leg to stand, and therefore, liable to be cancelled. Contents of the application read as under:

"May it please your Honors,

Assessee had preferred an appeal before your Honors against the quantum order passed by Ld. CIT(A) u/s 250 rws 143(3) vide 1TA No. 60/Ind/2019. It is submitted that the said appeal has been decided by the Hon'ble Bench in the favour of assessee vide order pronounced on 28.06.2021.

Accordingly, it is most humbly submitted that the instant appeal on imposition of penalty is in-fructuous and may please be disposed of by deleting the penalty so imposed.

Submitted

Sd/-

(Authorized Representative)"

The Id.counsel for the assessee has also made submission to this effect at the Bar, and prayed for quashing of impugned penalty orders. The Id.DR does not dispute the factual position of the matter as averred by the Id.counsel for the assessee in this behalf.

4. After hearing both the parties, and on perusal of the material available on record, we find that impugned penalty in both the cases of the assesses stands extinguished as the Tribunal in the quantum appeals of the assessee, deleted the addition, on which impugned penalty has been imposed under section 271(1)(c) of the Act. Further, sub-clause (iii) of section 271(1)(c) provides mechanism for quantification of penalty. It contemplates that the assessee would be directed to pay a sum in addition to taxes, if any, payable him, which shall not be less than but which shall not exceed three times the amount of tax sought to be evaded by reason of concealment of income and furnishing of inaccurate particulars of income. In other words, the quantification of the penalty is depended upon the addition made to the income of the assessee. Since in the present case, basis for visiting the assessee with penalty has been extinguished by deleting addition by the Tribunal vide order dated 28.6.2021 (supra), the impugned penalty does not survive. In other words, there is no room for the Revenue to impose penalty under section 271(1)(c) in this case. The Id.DR has not disputed the factual position of the case. Therefore, we delete impugned penalty in both the cases of the assessee, and cancel orders of the both the Revenue authorities passed under section 271(1)(c) of the Act.

5. In the result, both the appeals of the assessees are allowed.

Order pronounced in the Court on _6th ___July, 2021 at Indore.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Sd/-
(RAJPAL YADAV)
VICE-PRESIDENT

Indore, Dated 06/07/2021

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण / DR, ITAT,
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार(Dy./Asstt.Registrar)

आयकर अपीलीय अधिकरण, / ITAT,

1. *Date of dictation* : **06-07-2021**
2. *Date on which the typed draft is placed before the Dictating Member.* :
3. *Date on which the approved draft comes to the Sr.P.S./P.S* :
4. *Date on which the fair order is placed before the Dictating Member for pronouncement.* :
5. *Date on which fair order placed before Other Member* :
6. *Date on which the fair order comes back to the Sr.P.S./P.S.* :
7. *Date on which the file goes to the Bench Clerk.* :
8. *Date on which the file goes to the Head Clerk.* :
9. *The date on which the file goes to the Assistant Registrar for signature on the order.* :
10. *Date of Despatch of the Order* :