

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI 'B' BENCH, MUMBAI**

**[Coram: Pramod Kumar (Vice President)
And Amarjit Singh (Judicial Member)]**

ITA No. 22/Mum/2021
Assessment Year: 2008-09

**Dy. Commissioner of Income Tax
Central Circle-3(2)(1), Mumbai**

.....Appellant

Vs

M/s. Manugraph India Ltd.
*Sidhwa House, N. A. Sawant Marg,
Colaba, Mumbai-400 005 [PAN : AAACM 7246 H]*

.....Respondent

Appearances by

N. Jayendran *for the appellant*
C. T. Mathews *for the respondent*

Date of concluding the hearing : December 06, 2021
Date of pronouncement : December 07, 2021

ORDER

Per Pramod Kumar, VP:

1. By way of this appeal, the Assessing Officer has challenged the correctness of the order dated 29.10.2020, passed by the CIT(A)-57, Mumbai, in the matter of penalty u/s.271(1)(c) of the Income Tax Act, 1961, for the assessment year 2008-09 on the following grounds:

1. "Whether on the fact and circumstances of the case, the Ld.CIT(A) erred in deleting the penalty of Rs.1,34,34,378/- u/s.271(1)(c) without appreciating the fact that the assessee had furnished inaccurate particulars of income in respect of the issues pertaining to charging interest and providing corporate guarantee and also that the same are subject matter of SLP filed by the department is pending before the Hon'ble Supreme Court?

2. The appellant prays that the order of the CIT(A) on the above grounds be set aside and that of Assessing Officer be restored.

2. When this appeal was called for hearing, the learned counsel for the assessee invited our attention to the fact that the related quantum additions, in respect of which the impugned penalty is imposed, stand deleted by a decision of the co-ordinate bench. The view so taken by the co-ordinate bench has been approved by the Hon'ble Jurisdictional High Court as well. It is submitted that in this view of the matter, the conclusion arrived at by the learned CIT(A) cannot be faulted.

3. The learned Departmental Representative does not dispute the submissions made by the assessee, but relies upon the stand of the Assessing Officer nevertheless.

4. In view of the above factual position and in view of the fact that the related quantum addition do not survive any longer, the conclusion arrived at by the learned Commissioner cannot indeed be faulted. The very foundation of the impugned penalty ceases to hold good in law. The mere fact that an SLP is pending before the Hon'ble Supreme Court does not affect the position as it exists now, and that is what really matters. We, therefore, confirm the conclusion arrived at by the learned CIT(A) and decline to interfere in the matter.

5. In the result, the appeal filed by the Revenue is dismissed. Pronounced in the open court today on the 7th day of December, 2021.

Sd/-

Amarjit Singh
(Judicial Member)

Sd/-

Pramod Kumar
(Vice President)

Mumbai, dated the 7th day of December, 2021

Roshani, Sr. PS

Copies to: (1) *The Applicant* (2) *The respondent*
 (3) *CIT* (4) *CIT(A)*
 (5) *DR* (6) *Guard File*

By order

Assistant Registrar/Sr. PS
Income Tax Appellate Tribunal
Mumbai benches, Mumbai