

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

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

ITA No. 87/Mum/2021  
Assessment Year: 2008-09

**Dy. Commissioner of Income Tax  
Central Circle-8(4), Mumbai**

.....Appellant

*Vs*

**Shri Mohan Thakur**  
*4, Flora Villa, 35, St. Andrews Road, Bandra (W),  
Mumbai-400 050 [PAN: AAAPT 2966 N]*

.....Respondent

**Appearances by**

**Shashi Bekal** *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 24.01.2020, passed by the CIT(A)-50, 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 holding that since the quantum addition has been deleted by the ITAT and the penalty cannot stand on its own without appreciating the fact that the Hon'ble ITAT has deleted the quantum addition without discussing the case on merits." – Rs.1,83,26,600/-

2. "Whether on the fact and circumstances of the case, the Ld.CIT(A) erred in deleting the penalty. Without appreciating the fact that the quantum addition was made on basis of information received from Australian Tax Authority regarding hawala funding to the extent of Rs.3,02,17,593/- by the assessee to his son, Shri Shagun Thakur."

3. "Whether on the fact and circumstances of the case, the Ld.CIT(A) erred in deleting the penalty without appreciating the fact that the Ld.CIT(A) confirmed the quantum addition was made on basis of information received from Australian Tax Authority regarding hawala funding to the extent of Rs.3,02,17,593/- by the assessee to his son, Shri Shagun Thakur."
4. The appellant prays that the order of the CIT(A)-on the above grounds be set aside and that of the , -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. 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. 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 07<sup>th</sup> day of December, 2021.

Sd/-  
**Amarjit Singh**  
(Judicial Member)

Sd/-  
**Pramod Kumar**  
(Vice President)

**Mumbai, dated the 7<sup>th</sup> day of December, 2021**  
*Roshani, Sr. PS*

*Copies to:*

(1)	<i>The Applicant</i>	(2)	<i>The respondent</i>
(3)	<i>CIT</i>	(4)	<i>CIT(A)</i>
(5)	<i>DR</i>	(6)	<i>Guard File</i>

*By order*

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