

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

ITA No. 230/PUN/2020

निर्धारण वर्ष / Assessment Year : 2013-14

Shankar Sadashiv Dangat, Virangula Residency, Sadashiv Dangat Nagar, Ambegaon Bk, Pune 411 046 Maharashtra PAN : AGMPD9426H	Vs.	ITO, Ward-11(1), Pune
Appellant		Respondent

Assessee by
Revenue by

Shri Abhay Shastri
Shri M.G. Jasnani

Date of hearing

07-06-2022

Date of pronouncement

07-06-2022

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the assessee arises out of the order passed by the CIT(A)-1, Pune on 10-12-2019 confirming the penalty of Rs.10,23,903/- imposed by the Assessing Officer (AO) u/s.271(1)(c) of the Income-tax Act, 1961 (hereinafter called 'the Act') in relation to the assessment year 2013-14.

2. Having heard both the sides and perused the relevant material on record, it is noticed that the quantum appeal of the assessee came up for consideration before the Tribunal. Vide

order dated 22-01-2020, the Tribunal in ITA No.523/PUN/2017 has restored the matter to the file of the Id. CIT(A) for fresh consideration and decision. Since the matter in the quantum proceedings has gone back to the Id. CIT(A), we are of the considered opinion that it would be in the fitness of things if the matter concerning the penalty on such amount is also sent back to the Id. first appellate authority to be decided in conformity with the view that he canvasses on the additions in the proceedings pursuant to the directions given by the Tribunal. We order accordingly. Our view in restoring the penalty to the Id. CIT(A) is fortified by the judgment of the Hon'ble Supreme Court in the case of *Mohd. Mohatram Farooqui vs. CIT (SC) 2010-TIOL-23-SC-IT* in which it has been held that if addition is restored to the AO, then penalty should also be restored. The Hon'ble Delhi High Court in *Sanjay Gupta vs. CIT (2014) 366 ITR 18 (Del)* has also held that where the quantum has been remanded to the AO, the question of penalty on account of the said amount being treated as undisclosed income, should also be remanded to the AO. Needless to say, the assessee will be allowed a reasonable opportunity of hearing in such fresh proceedings.

3. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the Open Court on 07th June, 2022.

Sd/-
(S.S.VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 07th June, 2022
Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-1, Pune
4. The Pr.CIT-1, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "B" /
DR 'B', ITAT, Pune
6. गार्ड फाईल / Guard file

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	07-06-2022	Sr.PS
2.	Draft placed before author	07-06-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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