

आयकर अपीलीय अधिकरण
मुंबई पीठ " एच "

श्री प्रमोद कुमार, उपाध्यक्ष एवं
श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH " H", MUMBAI

BEFORE SHRI PRAMOD KUMAR, VICE-PRESIDENT &
SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आअसं. 1240/मुं/2022 (नि. व.2007-08)
ITA NO.1240/MUM/2022(A.Y. 2007-08)

DCIT, Central Circle 1(2), Mumbai
Room No. 906, 9th Floor, Annexe Building,
Pratishtha Bhavan, MK Road,
Mumbai – 400 020

..... अपीलार्थी /Appellant

बनाम Vs.

Milan Kavin Parikh,
15A, J Mehta Road, Next to Khatau,
Condominium, Nepean Sea Road,
Mumbai – 400 006.

PAN: AADPP-0814-G

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Salil Mishra

प्रतिवादी द्वारा/Respondent by : Shri Vijay Mehta

सुनवाई की तिथि/ Date of hearing : 10/08/2022

घोषणा की तिथि/ Date of pronouncement : 10/08/2022

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

This appeal by the Revenue is directed against the order of Commissioner of Income Tax(Appeals)-47 , Mumbai [in short 'the CIT(A)'] dated 15/11/2021 for the assessment year 2007-08.

2. This appeal by the Revenue is time barred by 108 days. The impugned order was passed during the period of COVID-19 Pandemic . The Hon'ble

Supreme Court of India taking cognizance of the hardship caused to the litigants by pandemic extended the period of limitation under general laws and special laws vide order dated 23/09/2021 reported as “ Cognizance for Extension of Limitation, 132 taxmann.com 123. The present appeal has been filed within the extended period of limitation, hence, no delay.

3. Shri Vijay Mehta appearing on behalf of the assessee submitted at the outset that the CIT(A) has deleted penalty as the Tribunal in ITA No.1959 &1960/Mum/2020 vide order dated 07/04/2021 deleted the addition on which penalty was levied under section 271(1)(c) of the Income Tax Act, 1961 [in short ‘ the Act’].

4. Shri Salil Mishra representing the Department supported the assessment order.

5. Both sides heard. The Revenue is in appeal against deleting of penalty levied under section 271(1)(c) of the Act. Undisputedly, the Tribunal has deleted the additions on which penalty under section 271(1)(c) of the Act has been levied. Once the substratum for levy of penalty has eroded the penalty does not survive. We find no infirmity in the impugned order, hence, the same is upheld and appeal of the Revenue is dismissed.

Order pronounced in the open court on Wednesday the 10th day of August, 2022.

Sd/-

(PRAMOD KUMAR)

उपाध्यक्ष/VICE PRESIDENT

मुंबई/ Mumbai, दिनांक/Dated 10/08/2022

Vm, Sr. PS(O/S)

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
6. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai