

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S. S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1439/PUN/2019
निर्धारण वर्ष / Assessment Year: 2006-07

ACIT, Central Circle-2, Nashik.	Vs.	Gulab Maharu Badgujar (HUF), 204, Pashupatinath, C- 02 B Wing, Mahadev Sankalp Complex, Gandhare Village, Near Khadakpada Chowk, Kalyan (West), Thane- 421301. PAN : AAEHG6745C
Appellant		Respondent

Revenue by : Shri Arvind Desai
Assessee by : Shri Pramod S. Shingte

Date of hearing : 04.08.2022
Date of pronouncement : 23.08.2022

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the Revenue directed against the order of Id. Commissioner of Income Tax (Appeals)- 12, Pune [‘the CIT(A)’] dated 26.07.2019 for the assessment year 2006-07.

2. Briefly, the facts of the case are that the respondent-assessee is HUF deriving income under the head “Income from other sources”.

In this case, the assessment was completed u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 ('the Act'). Subsequently, the ld. Commissioner of Income Tax (Central), Nagpur had set-aside the assessment order in exercise of power of revision u/s 263 of the Act. Pursuant to the order u/s 263, an addition of Rs.19,00,000/- was made vide assessment order dated 18.01.2016 passed u/s 143(3) r.w.s. 263 of the Act. Subsequently, the Assessing Officer had proceeded with levy of penalty of Rs.11,24,943/- u/s 271(1)(c) of the Act vide order dated 27.03.2015.

3. Being aggrieved by penalty order, an appeal was filed before the ld. CIT(A) who vide impugned order allowed the appeal on the ground that the Assessing Officer had not recorded satisfaction by striking out of the relevant limb of the show-cause notice.

4. Being aggrieved by the order of the ld. CIT(A), the Revenue is in appeal before us.

5. Before us, it is submitted that the order passed was quashed by this Tribunal in assessee's own case vide ITA Nos.765 & 768/PUN/2017 for assessment years 2006-07 and 2011-12 dated 27.06.2019. Consequently, the assessment order passed also becomes nullity. Therefore, the order of penalty does not survive. The above submissions have not been controverted by the ld. CIT-

DR. In the circumstances, we are of the considered opinion that the appeal filed by the Revenue does not survive and become infructuous.

6. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced on this 23rd day of August, 2022.

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

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 23rd August, 2022.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A) -12, Pune.
4. The Pr. CIT Central, Nagpur.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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