

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

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

आयकर अपील सं. / ITA No.296/PUN/2022
निर्धारण वर्ष / Assessment Year : 2014-15

DCIT, Central Circle-1, Nashik.	Vs.	M/s. Dhanajay Marketing Pvt. Ltd., 37-39, Knatol Niwas, Modi Street, Fort, Mumbai- 400001. PAN : AAACD3552F
Appellant		Respondent

Revenue by : Shri Suhas Kulkarni
Assessee by : None

Date of hearing : 20.12.2022
Date of pronouncement : 22.12.2022

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the Revenue directed against the order of the ld. CIT(A)-12, Pune [‘the CIT(A)’] dated 10.02.2022 for the assessment year 2014-15 deleting the penalty of Rs.87,76,380/- u/s 271(1)(c) of the Income Tax Act, 1961 (‘the Act’).

2. At the outset, we find from the impugned order that the ld. CIT(A) deleted the penalty u/s 271(1)(c) taking into consideration the fact that the addition, on the basis of which the penalty u/s 271(1)(c) was levied by the Assessing Officer, was deleted by this

Tribunal in the quantum appeal vide order dated 19.05.2021 in IT(SS)A No.65/PUN/2017. We find merit in the reasoning of the ld. CIT(A) that when the quantum addition was deleted, the question of penalty u/s 271(1)(c) does not arise. It is a settled position of law that where the additions made in the assessment order, on the basis of which penalty for concealment was levied, are deleted, there remains no basis at all for levying the penalty for concealment and, therefore, in such a case no such penalty can survive and the same is liable to be cancelled as held by the Hon'ble Supreme Court in the case of K. C. Builders vs. ACIT [2004] 135 Taxman 461 (SC). Therefore, we find no merits in the appeal of the Revenue.

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

Order pronounced on this 22nd day of December, 2022.

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

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 22nd December, 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, "C" बेंच, पुणे / DR, ITAT, "C" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

// True Copy //

आदेशानुसार / BY ORDER,

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