

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**ITA No.927/Mum/2023
(Assessment Year :2013-14)**

Dy. Commissioner of Income Tax-19(3) Mumbai Matru Mandir Room No.206, Grant Road Mumbai-400 007	Vs.	Shri Rajendra Rameshchandra Chaturvedi 4 th Floor, Shreepati Arcade Premises No.1 & 2 August Kranti Marg Nana Chowk Mumbai-400 036
PAN/GIR No.ACZPC5041Q		
(Appellant)	..	(Respondent)

Assessee by	Shri Suchek Anchaliya
Revenue by	Smt. Riddhi Mishra
Date of Hearing	08/06/2023
Date of Pronouncement	28/06/2023

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the Revenue against the order dated 06/02/2023 passed by NFAC, Delhi in relation to the penalty proceedings u/s. 271 (1) (C) for the A.Y.2013-14.

2. The Revenue is aggrieved by the deletion of penalty of Rs.13,46,06,137/-. The grounds raised by the Revenue are as under:-

“1. Whether Ld CIT(A) is correct in deleting the penalty levied by the Assessing Officer u/s 271(1)(c) of the Act stating that the appeal against the assessment order before the ITAT is quashed

2 The Ld. CIT(A) has erred in deleting the penalty levied by the Assessing Officer u/s 271(1)(c) of the Act instead of observing the fact that the department had challenged the Hon'ble ITAT Order before the Hon'ble Bombay High Court.”

3. From the perusal of the grounds and from the order of the Ld. CIT (A) it is clear that, the penalty which has been levied by the AO on addition of Rs. 41,48,39,241/- made u/s.68; and addition of Rs. 2,07,41,962/- u/s.69C, the Tribunal has deleted both the additions vide order dated 23/12/2020 in ITA No.7124 & 7581/Mum/2019. Once the quantum has been deleted, then penalty u/s 271(1)(c) has no legs to stand. Otherwise also, this matter is pending before the Hon'ble High Court in the quantum proceedings, but at this stage, no penalty is leviable. Accordingly, the appeal of the Revenue is dismissed.

4. In the result, appeal of the Revenue is dismissed.

Order pronounced on 28th June, 2023.

Sd/-
(GAGAN GOYAL)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated 28/06/2023
KARUNA, sr.ps

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai