

**IN THE INCOME TAX APPELLATE TRIBUNAL "I" BENCH, MUMBAI**

BEFORE PRASHANT MAHARISHI, AM  
AND  
SHRI RAJ KUMAR CHAUHAN, JM

**ITA No. 3637/MUM/2023**

(Assessment Year: 2006-07)

**ITA No. 3636/MUM/2023**

(Assessment Year: 2007-08)

DCIT (IT)(3)(3)(2),  
1632 Air India Building,  
Nariman point,  
Mumbai 400021

Vs.

Amrita Jhaveri,  
58, Hill Park,  
A. G Bell Marg,  
Mumbai 400006

**(Appellant)**

**(Respondent)**

**PAN No. AAEPJ2724L**

**Assessee by** : Shri. Ashwin Damania  
**Revenue by** : Shri. Anil Sant (SR. DR.)

**Date of hearing:** 24.04.2024  
**Date of pronouncement :** 13.05.2024

**ORDER**

**PER PRASHANT MAHARISHI, AM:**

01. ITA No. 3637/Mum/2023, is filed for A.Y. 2006-07 and ITA No. 3636/Mum/2023, is filed for A.Y. 2007-08, against the appellate order passed by the learned Commissioner of Income-tax (Appeals)-55, Mumbai [the learned CIT (A)] dated 24<sup>th</sup> July, 2023, wherein the appeal filed by the assessee against the penalty order passed under Section 271(1)(c) of the Act, dated 30<sup>th</sup> September, 2015, by the

ITO, (IT) (3)(3), Mumbai, was allowed for the reason that the addition made in the quantum appeal was deleted by the co-ordinate Bench holding that the entire reassessment order is null and void and therefore, as the quantum stands deleted, penalty thereon cannot survive and accordingly, the appeal filed by the assessee were allowed for these reasons.

02. The facts for both the years are identical. Therefore, the learned Assessing Officer is aggrieved and is in appeal before us. The grounds are also identical because the quantum of penalty wherein for A.Y. 2007-08, the penalty is ₹2,46,84,679/- and for A.Y. 2006-07, the penalty amount is ₹2,08,72,373/-, quantum appeal of the assessee were allowed by common order of the IT 80 dated 9/05/2023.
03. Brief facts of the case shows that in case of the assessee information was received by Government of India, from French Government under DTAA about having foreign bank account in HSBC Private Bank, Geneva, which are not disclosed to the Indian Tax Authorities. On the basis of the above information, the case of the assessee was reopened by issue of notice under Section 148 of the Act on 12<sup>th</sup> March, 2014, which culminated into an assessment order on 31<sup>st</sup> March, 2015, at a total income of ₹2,27,36,790/- being added in the hands of the assessee. Based on the assessment proceedings, the penalty notices were issued on 31<sup>st</sup> March, 2015, for concealment of income. Subsequent to that penalty orders were passed on



30<sup>th</sup> September, 2015, levying the penalty for A.Y. 2006-07 of ₹2,27,36,790/-.

04. The matter reached before the learned Commissioner of Income-tax (Appeals). However, by that time, the assessment orders were also challenged before ITAT. The ITAT vide ITA No. 6095/Mum/2015, dated 9<sup>th</sup> May, 2023, has quashed the reassessment proceedings and thus, the quantum orders were quashed. Based on this it was pleaded before the learned CIT (A) that as the quantum addition does not survive, naturally the penalty also do not survive. The learned CIT (A) quoting the order of the ITAT in paragraph no.5.3 deleted the penalty. Therefore, the learned Assessing Officer aggrieved.
05. The learned Departmental Representative supported the order of the learned Assessing Officer levying the penalty but also agreed that ITAT has passed the order in ITA No.6095/Mum/2015 for A.Y. 2006-07, and ITA No.6096/Mum/2016, for A.Y. 2007-08, wherein the reassessment proceedings are quashed and quantum additions are deleted.
06. The learned Authorized Representative submitted the copy of the order of ITAT dated 9<sup>th</sup> May, 2023, for both the above assessment years and therefore, stated that when the quantum addition has been deleted, the penalty does not survive.
07. We have carefully considered the rival contentions and perused the orders of the lower authorities. We find that



for A.Ys. 2006-07 and 2007-08, the quantum assessment orders were passed under Section 143(3) read with section 147 of the Act for both these assessment years. Both these assessment orders travelled to the co-ordinate bench in ITA No. 6095 and 6096/Mum/2016, for A.Y. 2006-07 and 2007-08, which was disposed off by order dated 9<sup>th</sup> May, 2023, wherein on the legal issues, the quantum reassessment orders were held to be null and void and thus, quashed. Therefore, the basis on which penalty was levied i.e. assessment orders itself are quashed and hence, these penalty orders does not have any legs to stand. Accordingly, the learned CIT (A) has correctly deleted the penalties for both the years. We do not find any infirmity in those appellate orders and hence, the grounds of appeal raised by the learned Assessing Officer also do not survive.

08. In the result, all the grounds of both these appeals are dismissed.

Order pronounced in the open court on 13.05.2024.

Sd/-  
(RAJ KUMAR CHAUHAN)  
(JUDICIAL MEMBER)

Sd/-  
(PRASHANT MAHARISHI)  
(ACCOUNTANT MEMBER)

Mumbai, Dated: 13.05.2024

*Sudip Sarkar, Sr.PS*

Copy of the Order forwarded to:

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



5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Mumbai