

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "D" BENCH : MUMBAI

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA.No.1750/Mum./2024
Assessment Year 2011-2012

Shri Rakeshkumar Patria, Bhoomi Gardenia-2, Flat No.B-804, Plot No.10, Road Pali Kalmboli, Sector-20, Mumbai-400078 Maharashtra PAN ALTPP5001A	vs.	The Income Tax Officer, Ward-28(2)(5), Room No.308, 3 rd Floor, Tower No.6, Vashi Railway Station Commercial Complex, Vashi, Navi Mumbai. PIN – 400 703. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Roshan Ochani
For Revenue :	Smt. Mahita Nair, Sr. DR

Date of Hearing :	10.07.2024
Date of Pronouncement :	18.07.2024

ORDER

PER SATBEER SINGH GODARA, J.M.

This assessee's appeal, for assessment year 2011-2012, arises against National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1060756874(1), dated 25.06.2019, in proceedings u/s.271(1)(c) of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. Coming to the assessee's sole substantive grievance raised in the instant appeal that both the learned lower authorities have erred in law and on facts in imposing sec.271(1)(c) penalty of Rs.20,12,620/-; it emerges at the outset with the able assistance coming from both the learned representatives that the taxpayer's corresponding quantum appeal challenging sec.69A a.dof Rs.70 lakhs made in the course of assessment dated 28.03.2018; had still stated to be pending before the CIT(A). The assessee has also filed the corresponding Form-35 before us to this effect. Faced with this situation and in light of the crucial fact that the learned CIT(A) has confirmed the assessee's penalty first than keeping the same in abeyance till the disposal of the quantum appeal, we deem it appropriate to restore the instant sole issue of correctness of the consequential penalty back to him for his afresh appropriate adjudication as per law in very terms. Ordered accordingly.

3. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open Court on 18.07.2024

Sd/-
[GIRISH AGARWAL]
ACCOUNTANT MEMBER

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Mumbai, Dated 18th July, 2024

VBP/-

Copy to

1.	The applicant
2.	The respondent
3.	The Pr. CIT, Mumbai concerned
4.	D.R. ITAT, "D" Bench, Mumbai.
5.	Guard File.

//By Order//

//True Copy //

Asst. Registrar, ITAT, Mumbai Benches,
Mumbai.