

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.2997/Mum/2024
(Assessment Year :2014-15)**

&

**ITA No.2998/Mum/2024
(Assessment Year :2013-14)**

Deputy Commissioner of Income Tax Room No.1923, Air India Building Nariman Point Maharashtra-400 021	Vs.	Vineet Mittal Shubham Building Gandhigram Road Near ISKON Temple Juhu Maharashtra-400 049
PAN/GIR No.AFHPM8584R		
(Appellant)	..	(Respondent)

Assessee by	Shri Pratik Jain / Shri Harshit Jain
Revenue by	Shri Ankush Kapoor
Date of Hearing	23/07/2024
Date of Pronouncement	25/07/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeals have been filed by the Revenue against order dated 03/04/2024 and 24/11/2023 passed by Id. CIT(A)-51, Mumbai in relation to the penalty proceedings u/s.271(1)(c) for the A.Y.2013-14 and 2014-15.

2. In both the appeals Revenue is aggrieved by deletion of penalty of Rs.54,71,505/- for A.Y.2013-14 and Rs.4,27,05,000/- for the A.Y.2014-15. The penalty has been levied on addition made by the ld. AO of Rs.1,71,91,404/-and Rs.12,19,73,443/- for A.Y.2013-14 and 2014-15 respectively which was made u/s.68 by treating long term capital gain on sale of shares of Turbotech Engineering Ltd., as bogus. Ld. CIT (A) has deleted the addition on the ground that Tribunal in the quantum proceedings vide order dated 25/01/2024 has deleted the addition and this quantum has been deleted. The penalty u/s.271 (1)(c) cannot be upheld.

3. The only ground raised by the Revenue before us is that department has not accepted the decision of the Tribunal with respect to the quantum appeal and has preferred further appeal before the Hon'ble High Court.

4. Since the addition on which penalty has been levied by the ld. AO has been deleted by the Tribunal, both u/s.68 on account of bogus long term capital gain and national commission for taking such accommodation entry of LTCG added u/s.69C has been deleted, therefore, penalty levied on such additions now has no legs to stand. Accordingly, ld. CIT (A) has rightly deleted the penalty for both the assessment years. Accordingly, both the appeals of the Revenue are dismissed.

5. In the result, both the appeals of the Revenue are dismissed.

Order pronounced on 25th July, 2024.

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Mumbai; Dated 25/07/2024
KARUNA, *sr.ps*

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

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