

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

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI SUNIL KUMAR SINGH (JUDICIAL MEMBER)**

**ITA No. 4020/MUM/2023
Assessment Year: 2014-15**

Mohd. Imtiyaz Faqir Mohd Shaikh,
100, Blue Flame Apartment, 40 S V
Road, Bandra (West),
Mumbai-400050.

**PAN NO. AGPPS 6863 A
Appellant**

Vs. ITO Ward 23(2)(3),
Room No. 115, 1st floor,
Matru Mandir, Tardeo,
Mumbai-400007.

Respondent

Assessee by : Mr. Jayant Bhatt
Revenue by : Mrs. Mahita Nair, Sr. DR

Date of Hearing : 08/08/2024
Date of pronouncement : 19/08/2024

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 16.10.2023, passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)’] for assessment year 2014-15 in relation to penalty levied for furnishing inaccurate particulars of the income.



2. Briefly stated, facts of the case are that the Assessing Officer levied penalty u/s 271(1)(c) of the Income-tax Act, 1961 (in short 'the Act') vide order dated 26.06.2017 in respect of three additions as under :

1.	Short Term Capital Gain	Rs.21,72,253/-
2.	U/s 56(2)(vii)	Rs.11,28,405/-
3.	U/s 69C as unexplained investment	Rs.4,60,000/-

3. On further appeal, the Ld. CIT(A) upheld the penalty levied by way of the impugned order.

4. Before us, the Ld. Counsel for the assessee sought for adjournment on the ground that a duplicate appeal against the same impugned order was filed by the assessee, which was registered at ITA No. 3892/Mum/2023 and was heard on 01.07.2024. Before us, the Registry pointed out that the Co-ordinate Bench has already pronounced order in the said appeal on 10.07.2024, wherein the penalty levied and sustained by the Ld. CIT(A) has been deleted. The relevant part of the Co-ordinate Bench is reproduced as under:

"4. We notice in this factual backdrop that the formal twin quantum additions herein additions represent the difference between actual sale/purchase considerations vis-à-vis stamp valuation thereof, wherein latter amounts) stand adopted for computing capital gains and income from other' sources; under section 50C and section 56(2)(vii) of the Act, respectively. There is no material in the case file which could suggest that the assessee had either received or paid anything over and above the former actual sale/purchase price stated in the relevant agreements. It is thus a case wherein learned lower authorities have wrongly treated the stamp valuation rate of the correspondence between sale and purchase transaction as inaccurate particulars submitted by the assessee.



5. *The factual position is hardly any different qua the third quantum addition of unexplained investment wherein the assessee could not substantiate his explanation proving sources thereof in the assessment proceedings. It is in these peculiar facts that we deem it appropriate to quote CIT Vs. Reliance Petroproducts P. Ltd. (2010)322 ITR 158 (SC) that quantum and penalty are parallel proceedings wherein each and every disallowance/addition made in course of the former does not ipso facto attract the latter provision, to delete the impugned penalty in very terms. Ordered accordingly.”*

4.1 Accordingly, the adjournment application of the assessee was rejected. The instant appeal being duplicate, held to be infructuous and dismissed.

5. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 19/08/2024.

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 19/08/2024
Rahul Sharma, Sr. P.S.

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,
(Assistant Registrar)
ITAT, Mumbai