

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “B”, MUMBAI
BEFORE SHRI. PRASHANT MAHARSHI, ACCOUNTANT MEMBER
AND
SHRI. RAJ KUMAR CHAUHAN, JUDICIAL MEMBER
ITA NO. 944/MUM/2024 (A.Y: 2006-07)**

ACIT- 2(3)(1)
552, Aayakar Bhavan, M. K.
Road, Churchgate, Mumbai –
400020.

(Appellant)

Assessee Represented by
Department Represented by

Date of conclusion of Hearing
Date of Pronouncement

Vs. Sterling Holiday Resorts Limited
3rd Floor, Star Hub, Building No. 2,
303/304, Chhatrapati Shivaji
Maharaj Intl Airport Road, Ashok
Nagar, Andheri, East, Mumbai –
400059.

PAN: AABCT7079G

(Respondent)

: Shri. Ninad Patade
: Shri. Ashok Kumar
Ambastha – (Sr. DR.)

: 31.07.2024
: 14.10.2024

ORDER

PER RAJ KUMAR CHAUHAN (J.M.):

1. This appeal is filed by the appellant/assessee against the order dated 29.12.2023 of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the



“CIT(A)”, passed under section 250 of the Income Tax Act, 1961 [hereinafter referred to as “the Act”] for the A.Y. 2006-07.

2. The department is in appeal before us and has raised following grounds of appeal:-

1. *“The Ld. CIT(A) erred in deleting the penalty levied u/s. 271(1)(c) after relying in case of CIT Vs Brandix Maurtius Holding Ltd. although Hon'ble Supreme Court stayed the same order remarking that “not mentioning DIN in assessment orders may be an ‘irregularity’ but that does not make it an ‘illegality’.”*
2. *The Ld. CIT(A) erred in not adjudicating all the grounds of appeals on merits as the penalty order is held as void ab-initio for non-quoting of DIN in accordance with CBDT Circular No. 19/2019.”*

3. During the arguments, the Ld. DR very fairly submitted that the department appeal has become infructuous by virtue of circular no. 9/2024 dated 17.09.2024, wherein the monetary limit for tax effect for filing appeal before Income Tax Appellate Tribunal has been raised upto Rs. 60 lacs. It is submitted that the tax effect in this appeal is below 60 lacs and as such the appeal has become infructuous and same may be disposed off accordingly.

4. We have also heard the Ld. AR on behalf of the assessee, who has supported the submissions of the Ld. DR, and stated that since the appeal is not maintainable and has become infructuous.



5. We have considered the submissions and examined the record. In view of the enhancement of the monetary limit for filing the departmental appeal wherein the tax effect for filing the appeal should be Rs. 60 Lacs or above and the tax effect in this appeal has been shown to be Rs. 45,58,521/-; in view of these facts and the submissions made by the Ld. DR, the appeal filed by the department is accordingly dismissed having become infructuous.
6. In the result, appeal filed by the department is accordingly dismissed having become infructuous.

Order pronounced in the open court on 14.10.2024

Sd/-
(PRASHANT MAHARSHI)
(ACCOUNTANT MEMBER)

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

Mumbai / Dated 14.10.2024
Karishma J. Pawar, (Stenographer)

Copy of the Order forwarded to:

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



ITA No. 944/Mum/2024
Sterling Holiday Resorts Limited; A.Y. 2006-07

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mumbai