

**आयकर अपीलीय अधिकरण, सूरत न्यायपीठ, सूरत**  
IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER  
आयकर अपील सं./**ITA No. 528/SRT/2024** (AY 2018-19)  
(*hearing hybrid processing*)

M/s Sai Krishna Developers Beside Sai Darshan Society, Ramwadi Bardoli, Surat-394 601 <b>[PAN : ACNFS 0963 R]</b>	बनाम Vs	Principal Commissioner of Income- tax-1, Surat, Room No.123, 1 <sup>st</sup> Floor, Aayakar Bhawan, Majura Gate, Surat-395 001
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से /Assessee by	Shri Tushar P. Hemani, Senior Advocate with Shri Parimalsinh Parmar, Advocate
राजस्व की ओर से /Revenue by	Shri Ravi Kant Gupta– CIT-DR
सुनवाई की तारीख/Date of hearing	08.01.2025
उद्घोषणा की तारीख/Date of pronouncement	08.01.2025

**Order under section 254(1) of Income Tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER:**

1. This appeal by assessee is directed against the order of Ld. Principal Commissioner of Income-tax-1, Surat [for short to as "Ld. PCIT"] passed under section 263 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') dated 22.03.2024 for assessment year (AY) 2018-19, in revising of assessment order passed by Assessing Officer under section 143(3) r.w.s. 144B of the Act dated 21.04.2021 for assessment year 2018-19. The Id PCIT while revising assessment order it was held that while passing assessment order, the Assessing Officer initiated penalties under section 270A instead of 271AAC of the Act, thus, assessment order is erroneous and in so far as prejudicial to the interest of justice.

2. Rival submissions of both parties heard and record perused. The Learned Senior Counsel, Shri Tushar P Hemani (hereinafter referred as "Ld. Senior Counsel") submits that Ld. PCIT revised assessment order on the issue that Assessing Officer while passing the assessment order initiated penalties under section 270A instead of 271AAC of the Act and that assessment order is erroneous and in so far as prejudicial to the interest of Revenue. The Ld. Sr-Counsel submits that entire addition made in the assessment order has already been deleted by the Tribunal in appeal against the quantum assessment vide order dated 14.03.2024 in ITA No.761/Srt/2023. Against the order of Tribunal, the Revenue filed appeal before Hon'ble jurisdictional High Court, wherein said appeal is dismissed due to low tax effect in Tax Appeal No.814 of 2024 dated 17.10.2024. Thus, order passed by Tribunal has attained finality. The Ld. Sr. Counsel submits that once, the additions in the assessment is deleted, the issue identified by Ld. PCIT in impugned order for initiating penalty either under section 270A instead of 271AAC of the Act 22.03.2024 will not survive. Thus, the issue raised in the present appeal is covered in favour of the assessee. The Ld. Sr-Counsel for the assessee furnished copy order of Tribunal in quantum appeal in ITA No.761/Srt/2023 (supra) and of Hon'ble jurisdictional High Court in Tax Appeal No.814 of 2024 dated 17.10.2024.
3. On the other hand, Ld. CIT-DR for the Revenue after going through the order of Tribunal in quantum assessment as well as order of Hon'ble jurisdictional High Court in Tax Appeal No.814 of 2024 dated 17.10.2024, accepted the fact that issue is covered in favour of assessee.

4. We have considered the rival submissions of both the parties and find that once the addition in quantum assessment has already been set aside / deleted, the issue of penalty either under section 270A or 271AAC of the Act will not survive, thus, the impugned order dated 22.03.2024 passed by Id PCIT is set-aside. In the result, the grounds of appeal raised by the assessee is allowed.
5. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 08/01/2025 at the time of hearing.

Sd/-  
(BIJAYANANDA PRUSETH)  
लेखा सदस्य/Accountant Member

Sd/-  
(PAWAN SINGH)  
न्यायिक सदस्य/Judicial Member

सूरत / Surat Dated: 08 /01/2025  
Dkp Outsourcing Sr.P.S\*

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

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By order/आदेश से,

सहायक पंजीकार  
आयकर अपीलीय अधिकरण, सूरत