



**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH (SMC),  
RAJKOT**

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER**

**आयकरअपीलसं./ITA No.654/RJT/2024**

**Assessment Year: (2011-12)**

**(Hybrid Hearing)**

Smt. Ilaben Mahendrabhai Dave, PP1, Nr. 14, Vai Nagar, Govt. Servant Society, Raiya Road, Rajkot – 360005	<b>Vs.</b>	The ITO Ward – 1(1)(2), Rajkot,
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ALWPD9978K</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Appellant by</b>	Shri Mehul Ranpura, Ld. A.R.
<b>Respondent by</b>	Shri Abhimanyu Singh Yadav, Sr. DR
<b>Date of Hearing</b>	30/10/2024
<b>Date of Pronouncement</b>	23 /01/2025

**आदेश / ORDER**

**PER DR. A. L. SAINI, AM:**

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2011-12, is directed against the order passed by the Learned Commissioner of Income Tax(Appeals), National Faceless Appeal Centre, Delhi [in short “the Ld. CIT(A)/NFAC”], dated 26.06.2024, which in turn arises out of a penalty order passed by Assessing Officer (in short ‘the AO”) u/s 271(1) (c) of



the Income Tax Act, 1961 (hereinafter referred to as "the Act"), vide order dated 26.06.2019.

2. At the outset, the Ld. Counsel for the assessee, begins by pointing out that quantum appeal of the assessee is pending before the Ld. CIT(A) and has not been decided by the Ld. CIT(A), therefore, the penalty appeal, under consideration, under section 271(1)(c) should be remitted back to the file of the Ld. CIT(A) to decide the penalty, as per the outcome of quantum proceedings.

3. On the other hand, the Ld. DR for the revenue submitted that penalty and quantum proceeding are different proceedings, therefore, this penalty appeal may be decided by this Tribunal, instead of sending back to the file of the Ld. CIT(A).

4. I have heard both the parties and I note that quantum appeal has not been decided by the Ld. CIT(A). The penalty is very much linked with quantum addition, if the quantum addition is deleted by Ld. CIT(A), then penalty does not have any leg to stand. The Ld. Counsel for the assessee informed the Bench that quantum appeal of the assessee, vide appeal No. CIT(A), Rajkot-1/10306/2019-20, is pending before Ld. CIT(A) for adjudication. Therefore, I remit this penalty appeal back to the file of the Ld. CIT(A), with the direction to adjudicate the appeal as per the outcome of the quantum proceedings.

5. In the result, this appeal of the assessee is allowed for statistical purposes only.



**Order is pronounced on 23 /01/2025 in the open court.**

**Sd/-  
(Dr. A.L. SAINI)  
ACCOUNTANT MEMBER**

Rajkot

दिनांक/ Date:23/01/2025

**Copy of the Order forwarded to:**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot