

IN THE INCOME TAX APPELLATE TRIBUNAL  
“D” Bench, Mumbai  
Before Shri B.R. Baskaran (AM)& Pawan Singh (JM)

I.T.A. No. 7231/Mum/2014  
(Assessment Year 2006-07)

Mr. Ranjeet D. Vaswani 121, Maker Chamber VI Nariman Point Mumbai-400 021.	Vs.	DCIT12(3) 1 <sup>st</sup> Floor, 137 Aayakar Bhavan M.K. Road Mumbai-400 020.
(Appellant)		(Respondent)

PAN No. AAEPV1835C

Assessee by	Shri Vimal Punmiya
Department by	Capt. Prasad S. Arya
Date of Hearing	5.7.2016
Date of Pronouncement	20.7.2016

ORDER

Per B.R. Baskaran (AM):-

The appeal filed by the assessee is directed against the order dated 04-07-2014 passed by learned C I T (A)-23, Mumbai and it relates to the assessment year 2006-07. The assessee is aggrieved by the decision of learned C I T (A) in confirming penalty levied u/s 271(1)(c) of the Act on the disallowance of expenditure claimed against rental income from Dada manzil property.

2. We heard the parties and perused the record. While computing income from house property in respect of Dada manzil property, the assessee claimed various expenses. However the assessing officer allowed only those expenses, which are allowable under section 24 of the Act. The assessee held 1/3<sup>rd</sup> share in the property. Accordingly the assessing officer levied penalty on the one third of expenses disallowed by him considering the same as furnishing of inaccurate particulars of income. The learned C I T (A) also confirmed the penalty.

3. The learned A.R submitted that the penalty levied on identical addition made it in the hands of another co-owner Mrs.Vimla Vaswani has been deleted by the coordinate bench of Tribunal in the order passed in ITA. No. 2608/Mum/08 dated 29<sup>th</sup> of January 2010. The learned AR further submitted that the claim made by the assessee, which is not sustainable in law, would not give rise to finality under section 271 (one) (C) of the Act.

4. On the contrary, the Learned DR placed reliance on the order passed by Learned CIT(A).

5. Having heard rival submissions, we are of the view that there is merit in the submissions made by the learned AR. His contentions are getting support from the decision rendered by Honourable Supreme Court in the case of Reliance petro products (321 ITR 158), wherein the Hon'ble Apex Court has held that the deductions claimed, which are not sustainable in law, would not give rise to a case of furnishing of inaccurate particulars of income. Accordingly we set aside the order passed by Learned CIT(A) and direct the assessing officer to delete the penalty levied on the expenses disallowed in respect of Dada Manzil Property.

6. In the result, the appeal filed by the assessee is allowed.

Order has been pronounced in the Court on 20.7.2016

Sd/-  
(PAWAN SINGH)  
JUDICIAL MEMBER

Sd/-  
(B.R.BASKARAN)  
ACCOUNTANT MEMBER

Mumbai; Dated : 20/7/2016

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT

5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

*PS*

BY ORDER,  
(Dy./Asstt. Registrar)  
ITAT, Mumbai