

**आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ, G, मुंबई ।**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "G", MUMBAI**

**श्री अमित शुक्ला, न्यायिक सदस्य एवं  
श्री अश्वनी तनेजा, लेखा सदस्य, के समक्ष**

**Before Shri Amit Shukla, Judicial Member, and  
Shri Ashwani Taneja, Accountant Member**

**ITA No.5502/Mum/2014  
Assessment Year: 2006-07**

Geetu R. Chandiramani, 15 Bandus Court, 1 <sup>st</sup> Pasta Lane, Colaba Mumbai-400005	<b>बनाम/ Vs.</b>	ITO 12(2)(4) Mumbai-
(Assessee)		(Revenue)
P.A. No.AABPC0695G		

Appellant by	Shri D.B. Mohini (AR)
Respondent by	Shri A. Ramachandran (DR)

सुनवाई की तारीख/ <b>Date of Hearing:</b>	<b>31/05/2016</b>
आदेश की तारीख / <b>Date of Order:</b>	<b>31/05/2016</b>

**आदेश / O R D E R**

**Per Amit Shukla (Judicial Member):**

This appeal has been filed by the Revenue against the order of Ld. Commissioner of Income Tax (Appeals), Mumbai-23 {(in short 'CIT(A)}}, dated 16.06.2014 passed against penalty order u/s 271(1)(c) dated 19.03.2012 for the Assessment Year 2006-07 for contesting the levy of penalty of Rs.61,650/- levied by the AO.

**2.** During the course of hearing, arguments were made by Shri D.B. Mohini, (AR) on behalf of the Assessee and by Shri A. Ramachandran, Departmental Representative (Ld. DR) on behalf of the Revenue.

**3.** During the course of hearing it was brought to our notice that similar disallowance was made in the case of co owner of the assessee namely Mrs. Parmeshwari L. Chandiramani, on which penalty was also levied which was subsequently deleted by the tribunal vide order dated 11.05.2016 in ITA No.5503/Mum/2014.

**3.1.** The Ld. DR did not controvert the submissions of the assessee. It is noted by us that disallowance was made and penalty was levied on the identical issue in the case of co-owner, as stated by the Ld. Counsel that the tribunal vide its aforesaid order deleted the penalty with following observations:

*“We have considered the rival submissions and perused the relevant materials on records placed before us. After perusing the orders of the authorities below, we find that it is classical case of non-application of mind both by the AO and FAA. The FAA in quantum proceedings decided the issue in favour of the assessee by issuing directions to the AO and allowed the appeal for statistical purposes. The AR of the assessee also; vehemently argued that the income as per the assessment order and income after appeal effect in quantum proceedings were same and penalty levied was wrong and due to non-*

*application of mind to the facts, both on the part of AO and CIT(A). Thus, both the authorities below have failed to appreciate the facts correctly. Moreover, the penalty provisions are harsh and not to be applied mechanically as has been done in the instant case. We, therefore, direct the deletion of penalty by reversing the order of FAA. The AO is directed accordingly, Thus, grounds raised by the assessee are allowed.”*

**3.2.** Nothing has been argued before us to make any distinction in the facts. We find that no different decision can be taken from the decision as has already taken by the Tribunal. Under these circumstances we find that impugned penalty is not sustainable and therefore, impugned penalty of Rs.61,650/- is directed to be deleted.

**4.** In the result, this appeal filed by the assessee is allowed.

Order pronounced in the open court on 31<sup>st</sup> May , 2016.

Sd/-

(Ashwani Taneja)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(Amit Shukla )

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 31/05/2016

*Patel. P.S.नि.स.*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT, Mumbai.
4. आयकर आयुक्त / CIT(A)- , Mumbai

5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,  
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / **ITAT, Mumbai**