

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.6719/Mum/2014
Assessment Year: 2008-09**

Legal heir of Late Jyoti Umesh Shetty, C/O. Sanjay C. Shah, B-3 OM Joshi Apartment Lallubhai Park RD, Andheri (W) Mumbai-400058	बना म/ Vs.	ITO WD 20(1)(3) Piramal Chambers Mumbai-
(Assessee)		(Revenue)
P.A. No.AMQPS6247M		

Appellant by	Shri Sanjay C. Shah (AR)
Respondent by	Shri Azghar Zain (DR)

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

आदेश / O R D E R

Per Amit Shukla (Judicial Member):

This appeal has been filed by the assessee against the order of Ld. Commissioner of Income Tax (Appeals), Mumbai-31 {(in short 'CIT(A)}}, dated 27.08.2014 passed against penalty order u/s 271(1)(c) dated 24.06.2011 for the Assessment Year 2008-09.

2. During the course of hearing, arguments were made by Shri Sanjay C. Shah, (AR) on behalf of the Assessee and by Shri Azghar Zain, Departmental Representative (Ld. DR) on behalf of the Revenue.

3. During the course of hearing it was submitted by the Ld. Counsel of the assessee that disallowance made in the assessment order on which impugned penalty was levied has been deleted in toto by the Hon'ble ITAT vide its order dated 30.10.2015 in ITA No.5505/Mum/2014.

3.1. Per contra Ld. DR did not oppose the factual submissions made by the Ld. Counsel.

3.2. We have gone through the aforesaid order of the Tribunal and find that disallowance made by the AO has been deleted by the Tribunal thus, as on date the basis of levy of penalty do not survive any more, and therefore, we do not find any justification to continue with the penalty. Under these circumstances the penalty levied by the AO is directed to be deleted.

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

Order pronounced in the open court on 31st 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