

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

**BEFORE SHRI JOGINDER SINGH(JUDICIAL MEMBER)  
AND  
SHRI ASHWANI TANEJA (ACOUNTANT MEMBER)**

I.T.A. No.4073/Mum/2013  
(Assessment year : 2006-07)  
&  
I.T.A. No.4074/Mum/2013  
(Assessment year : 2006-07)

ITO 6(1)-1, Mumbai	vs	Shri Rajesh D Vaidya 210/B1, Om Jai Laxmi Co-op Housing Society, Opp Sion Hospital, Sion (E), Mumbai-22
		PAN : AAACI2043Q
(Appellant)		(Respondent)

Appellant by	Shri Rakesh Ranjan
Respondent by	None

Date of hearing : 20-06-2016  
Date of pronouncement : 24-06-2016

**ORDER**

**Per ASHWANI TANEJA, AM**

These appeals pertain to same assessee. First we shall take up revenue's appeal in ITA No.4073/Mum/2013 for A.Y. 2006-07. This appeal has been filed by the revenue against the order of Commissioner of Income-tax

(Appeals) [hereinafter called Id.CITA]] dt 28-02-2013 against the assessment order u/s 143(3) for A.Y.2006-07.

2. During the course of hearing it has been brought to our notice that tax effect involved in this case is less than Rs.10 lakhs. The Id.DR confirmed this fact. Under these circumstances, we find that appeal filed by the revenue is not maintainable in view of circular No.21 of 2015 of CBDT dt 10-12-2015. Thus, the appeal of the revenue being not maintainable , is hereby dismissed. Our order should have no bearing on merits of the case.

3. Now we shall take up appal filed by the revenue in ITA No.4074/Mum/2013 passed against order of Ld.CIT(A) DT 28-2-2013 passed against penalty u/s 271(1)(c) for A.Y. 2006-07.

4. It is noted that the Assessing Officer had levied penalty of Rs.10 lakhs u/s 271(1)(c) which was deleted by the Ld.CIT(A) on the ground that addition made in the assessment order u/s 68 amounting to Rs.2,58,404 on which penalty was levied, was deleted by the Ld.CIT(A). It is noted by us that appeal filed by the revenue in the quantum has been dismissed in our order as discussed above. Thus, as on date, the quantum addition stands deleted. Thus, there are no basis to continue with the penalty levied by the Assessing Officer. Under these circumstances, we find that the Ld.CIT(A) has rightly deleted the penalty and his order is confirmed.

5. In the result, appeals filed by the revenue are dismissed.

*Order pronounced in the open court at the conclusion of hearing.*

Sd/-	sd/-
(JOGINDER SINGH)	(ASHWANI TANEJA)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Mumbai, Dt : 24<sup>th</sup> June, 2016

Pk/-

Copy to :

1. The appellant
2. The respondent
3. The CIT(A)
4. The CIT
5. The Ld. Departmental Representative for the Revenue, D-Bench

(True copy)

By order

ASSTT.REGISTRAR, ITAT, MUMBAI BENCHES