R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO. 176 OF 2017

Pr. Commissioner of Income Tax -4 .. Appellant

Versus

M/s. Claridges Investment & Finance P Ltd .. Respondent

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- Mr. Ashok N. Kotangle a/w Prabhakar Ranshur, Ms. Vaidehi Godse for the Appellant
- Mr. Pankaj Toprani i/by Sameer Dalal for the Respondent

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CORAM : AKIL KURESHI &
SARANG V. KOTWAL, JJ.

DATE : MARCH 19, 2019.

P.C.:

1. Revenue is in the appeal against the judgment of the Income Tax Appellate Tribunal ("the Tribunal" for short).

2. Following question is presented for our consideration:-

> " Whether on the facts and in circumstances of the case and in law, the Tribunal was justified in deleting penalty of Rs. 95,00,000/- levied u/S. 271(1)(c) of the Income Tax Act,1961 only on the technical ground that the Assessing Officer had initiated penalty for furnishing of inaccurate particulars of income but levied it on account of concealment of income?

3. The respondent assessee is a Private Limited Company. In the assessment for the assessment year 2007-08, there was disallowance of Rs. 1.83 crores on account of valuation of loss of shares converted from investment to stock-in-trade. This was confirmed upto the level of the Tribunal. The Assessing Officer had instituted penalty proceedings, he eventually imposed a penalty. The Tribunal, by the impugned judgment, deleted the penalty holding that the claim made having been erroneous, same was not made malafide. We are broadly in agreement with the view of the Tribunal. Every case of disallowance or addition would not necessarily resulted into penalty proceedings. In present case, when the Tribunal has come to the conclusion that the claim of the assessee was not malafide, no question of penalty arises. Hence, the Income Tax Appeal is dismissed.

[SARANG V. KOTWAL, J.] **[AKIL KURESHI, J]**