R.M. AMBERKAR
(Private Secretary)

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

INCOME TAX APPEAL NO. 317 OF 2017

Pr. Commissioner of Income Tax 3, Mumbai .. Appellant
Versus
M/s. Dome Bell Electronics (I) Pvt Ltd .. Respondent

....

- Mr. Sham Walve for the Appellant

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

DATE : APRIL 16, 2019.

P.C.:

1. This appeal is filed by the Revenue to challenge the judgment of the Income Tax Appellate Tribunal, Mumbai (“the Tribunal" for short).

2. Following question is presented for our consideration:-

> " Whether on the facts and circumstances of the case, the Tribunal was justified in deleting the penalty levied on the assessee u/S. 271(1)(c) of the I.T. Act, 1961 when the claim of carry forward of the long term capital loss of Rs. 4,73,11,879/- was not substantiated by the assessee and, therefore, not allowable and such claim amounts to the furnishing of inaccurate particulars of income within the meaning of Explanation 1 to Section 271(1)(c) of the I.T. Act?"

3. Issue relates to penalty imposed by the Assessing

Officer which was deleted by the CIT(A) and the Tribunal. In the return of income filed, the assessee had shown capital loss arising out of sale of shares. The Assessing Officer asked for the details of purchases. The assessee pointed out that the shares were purchased more than a decade back and the details were not readily available. The assessee, however, pointed out that full details were reflected in the documents which are already produced on record. The Assessing Officer did not accept such stand and rejected the claim of long term capital loss. He also instituted the penalty proceedings. The CIT(A) and the Tribunal held that merely because a claim was not accepted, would not mean that this was a case of withholding the particulars of income. It is well settled through series of judgments, reference can be made to the decision of the Supreme Court in case of **CIT (Ahmedabad) Vs. Reliance Petroproducts Pvt Ltd.**[1] that merely rejection of the claim which is otherwise bonafide, would not give rise to penalty proceedings. In the result, the Income Tax Appeal is dismissed.

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

1 [2010] 322 ITR 1548 (SC)