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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ ITA 182/2019 & CM Nos.9281-82/2019

PR. COMMISSIONER OF
INCOME TAX- 02, DELHI ..... Appellant
Through : Mr. Zoheb Hossain, Sr. Standing Counsel for Revenue.

versus

M/S CLIX CAPITAL SERVICES PVT. LTD.
(EARLIER KNOWN AS M/S. GE MONEY
FINANCIAL SERVICES PVT. LTD) ..... Respondent
Through : Mr. Sachit Jolly and Mr. Rohit Garg, Advs.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% **26.02.2019**

In this case, the provision for penalty was invoked under Section 271(1)(c) of the Income Tax Act; the Revenue is in appeal contending that the ITAT's decision in holding that the penalty is unwarranted, is erroneous in law.

The assessee had claimed loss on sale of its loan portfolio to the extent of ₹29,03,32,647/-. In the assessment, the Assessing Officer disallowed the penalty; the CIT(A) confirmed the disallowance. However, the ITAT set it aside. The Revenue carried the matter further and did not meet with success because its appeal under Section

260A was dismissed. However, it appears that the appeal was restored after the Revenue was successful in the review pursued by it.

We notice that the ITAT's reasoning to uphold the deletion of penalty in this case was that in the quantum proceedings, the disallowance had been set aside by it substantively. In the opinion of this court, this reasoning is sound. The penalty proceedings cannot have a life of their own *sans* the substantive proceedings which result in escapement of income. In this case, the ITAT substantively ruled against the Revenue. In any event, the facts would disclose that the issue is debatable and the penalty was not warranted. No substantial question of law arises in the present appeal. This appeal is accordingly dismissed.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

FEBRUARY 26, 2019

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