Pradnya Bhogale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 1542 OF 2017

The Pr. Commissioner of Income Tax-3, Pune ..Appellant
vs.
Sanand Properties Pvt. Ltd. ..Respondent

….........

Mr. Tejveer Singh for Appellant.
Mr. Atul K. Jasani for Respondent.

….........

CORAM : NITIN JAMDAR &
M.S.KARNIK, JJ.

DATE : 8 JANUARY 2020

P.C.:-

Heard learned counsel for the parties.

2. The Appeal pertains to the Assessment Year 2009-2010.

3. The Appellant has raised the following question as substantial question of law :

> (A) "Whether on the facts and in the circumstances of the case and in law, the Hon'ble ITAT was justified in deleting the penalty levied by the Assessing Officer u/s 271(1)(c) of the Income Tax Act, of Rs.1,78,25,925/-."

4. The Tribunal in the impugned order while disposing of the Appeal has observed as under :-

> "Since the very addition which is the basis for levy of penalty has been deleted by the Tribunal in the quantum appeal, therefore, the penalty does not survive. We, therefore, do not find any infirmity in the order of CIT (A) cancelling the penalty levied by the Assessing Officer u/s 271(1)(c) of the Income Tax Act. Accordingly, the order of the CIT(A) cancelling the penalty is upheld and the grounds raised by the Revenue are dismissed."

5. The learned counsel for the Respondent has placed on record a common order passed in Income Tax Appeal No.1837 of 2014 and Income Tax Appeal No.1865 of 2014 dated 24 March, 2017. He submits that the Appeals on merits (quantum) filed by the Appellant-Revenue have been dismissed by this order. He submits that levy of the penalty no longer survives and the position stated in the order passed by the Tribunal now stands confirmed. The learned counsel for the Appellant is not in a position to controvert the contention that the question of law now no longer survives.

6. In the circumstances, the Appeal stands disposed of.

(M.S.KARNIK, J.) **(NITIN JAMDAR, J.)**