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

INCOME TAX APPEAL NO.1357 OF 2017

Pr. Commissioner of Income Tax – 20 ….Appellant

V/s.

Prashant R. Samdani ….Respondent

WITH
INCOME TAX APPEAL NO.219 OF 2018

Prashant R. Samdhani ….Appellant

V/s.

Deputy Commissioner of Income Tax
Circle 17(2) ….Respondent

Mr. Dharan Gandhi for appellant in ITXA/219/2018 and respondent in ITXA/1357/2017.
Mr. Suresh Kumar for respondent in ITXA/219/2018.

CORAM : K.R. SHRIRAM &
N.J. JAMADAR, JJ.
DATED : 7th MARCH 2022

P.C.:

INCOME TAX APPEAL NO.1357 OF 2017

1 In the appeal, though three questions of law are proposed, appellant seems to be aggrieved by the order of the ITAT pronounced on 23rd November 2016 upholding the finding of the CIT (A) reducing the quantum of penalty under Section 221(1) of the Income Tax Act, 1961 from 100% to 10%.

2 We have considered the impugned order. The ITAT has given a finding that the Assessing Officer, who imposed maximum penalty of 100% of tax in arrear, has not recorded his satisfaction as to why the maximum

penalty should be levied. On the contrary, the ITAT has expressed satisfaction that the CIT (A), while considering the grounds of appeal, was satisfied that though the assessee had promised to complete his entire liability by 31st December 2012, completed it by 15th January 2013. The ITAT has also observed that by 31st December 2012 the assessee has paid Rs.3,77,00,000/- and the balance of Rs.47,76,310/- was paid on 15th January 2013. The CIT (A) has also considered the reason behind assessee's explanation of financial constraints.

3 In the circumstances, we do not find any reason to interfere with the impugned order. In our view, the Tribunal has not committed any perversity or applied incorrect principles to the given facts and when the facts and circumstances are properly analysed and correct test is applied to decide the issue at hand, then, we do not think that question as pressed raises any substantial question of law.

4 The appeal is devoid of merits and it is dismissed with no order as to costs.

INCOME TAX APPEAL NO.219 OF 2018

5 Heard Mr. Gandhi and also considered the appeal memo and the impugned order. We do not find any error in the exercise of discretion by the learned CIT (A) as well as the ITAT confirming the finding of the CIT (A).

6 Therefore, appeal dismissed.

(N.J. JAMADAR, J.) **(K.R. SHRIRAM, J.)**