IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL (IT) NO. 71 OF 2024

Pr Commissioner of Income Tax 27 Mumbai ...Appellant
Versus
Late Gordhandas S. Garodia Through L/h
Shri Mahesh G Garodia Ita 107/mum/2023 ...Respondent

Mr. Arjun Gupta for the Appellant.

Mr. Rahul Hakani for the Respondent.

CORAM : M.S. Sonak &
Advait M. Sethna, JJ.

DATED : 06 November 2025

P.C.:-

1. Heard learned counsel for the parties.

2. Mr. Gupta proposes the following question, which according to him, constitutes a substantial question of law:-

> B. Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT is correct in deleting the penalty u/s 271(1)(c) of the Income Tax Act, 1961 on technical ground by holding that penalty notice was not valid as the irrelevant portion was not struck off, without considering that the penalty was levied on both the grounds mentioned in section 271(1)(c) of the Act and therefore it was not possible to strike off one limb in the penalty notice?

3. Mr. Gupta submits that in this case the impugned penalty was levied based upon both the reasons referred to in the show cause notice and therefore there was no question of striking out any irrelevant portions as was the case before the Full Bench in the case of ***Mohd. Farhan A. Shaikh Vs. Deputy Commissioner of Income Tax, Central Circle 1, Belgaum***[1].

4. The ratio of the Full Bench in the case of ***Mohd. Farhan A. Shaikh*** (supra) was that ambiguous notices cannot be the foundation of imposition of any penalty. In this case, on the perusal of the show cause notice, it is not at all clear whether penalty was proposed to be imposed based on concealment, disclosure of incorrect particulars or both. Therefore, the vice pointed out by the Full Bench, equally applies to the show cause notice which was the foundation of imposition of the impugned penalty. The attempt to distinguish the decision of the Full Bench should therefore fail.

5. Since the Tribunal has followed the decision of the Full Bench of this Court, we do not think question of law as proposed above could be regarded as substantial question of law.

6. Since this Appeal does not involve any substantial question of law, we dismiss the same without any costs order.

(Advait M. Sethna, J) **(M. S. Sonak, J.)**

[1] [2021] 125 taxmann.com 253 (Bombay)