IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6894 OF 2025

Strada India Private Limited .. Petitioner

Versus

Assessment Unit, Income Tax Department
through Jurisdictional Assessing Officer/
Deputy Commissioner of Income Tax,
Circle-7(1)(1), Mumbai & Ors. .. Respondents

Mr. Darpan Kirpalani a/w Vaibhav Rajam, Ashwini Nalhe, Advocates for the Petitioner.

Dr. Dhanlakshmi Iyer a/w P. A. Narayanan, Advocates for the Revenue-Respondents.

CORAM : B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE : MARCH 10, 2026

P. C.

1. Rule. Respondents waive service. With the consent of parties, Rule made returnable forthwith and heard finally.

2. The above Writ Petition is filed challenging the Penalty Order dated 18th March 2025 issued under Section 270A of the Income Tax Act, 1961 (for short "**the IT Act**") and the consequent Demand

Notice also dated 18th March 2025 issued under Section 156 of the IT Act. The assessment year in question is A.Y.2020-2021.

3. It is the case of the Petitioner that the Petitioner, in the quantum proceedings to which the above penalty order relates, fully succeeded before the ITAT vide order dated 17th March 2025 and the quantum addition made by the Transfer Pricing Officer was deleted by the ITAT. Once the Petitioner succeeded in the quantum proceedings, there was no occasion for the Assessing Officer to invoke the provisions of Section 270A and levy any penalty on the Petitioner.

4. In the above matter, an affidavit-in-reply has been filed on behalf of the Revenue. In this reply, the Revenue has fairly stated that penalty could not have been levied on the Petitioner once the ITAT had deleted the addition. It appears that penalty order was passed one day after the order passed by the ITAT, and the Assessing Officer was not made aware of the order passed by the ITAT. The relevant portion of the affidavit, for the sake of convenience, is reproduced hereunder:-

> *7. Aggrieved by the final assessment order, the Petitioner filed an appeal before the Hon'ble Income Tax Appellate Tribunal, Mumbai in ITA No.3718/Mum/2024. The appeal was heard and disposed of on 17 March 2025, whereby the Hon'ble Tribunal*

allowed the Petitioner's appeal in full and deleted the entire TP adjustment of Rs.36,25,80,970/-.

8. *Further, in penalty proceedings, the penalty order was passed on 18th March, 2025 under Section 270A of the Act, on misreporting of income, and demand notice under Section 156 for Rs.21,11,67,156/- was issued.*

9. *In this regard, it is observed from the perusal of the records that the quantum appeal has been allowed by the Hon'ble ITAT and the quantum addition on the basis of which penalty has been levied has already been deleted by the Hon'ble ITAT. It is further observed that the order for deletion of the quantum addition was passed on 17.03.2025 and penalty order was passed on 18.03.2025 under Section 270A of the Act. The assessing officer while passing the order for levying of penalty was not aware regarding the deletion of quantum addition in the case of the assessee. The passing of order by the Hon'ble ITAT dated 17.03.2025 was also not informed by the assessee to the assessing officer as seen from the case history noting available in the ITBA Portal. There is a big gap of days between the pronouncement of the order in the ITAT and the final receival of order in the Income Tax department. ……….. .*

10. *As mentioned in Para no.8, the penalty shall be equal to two hundred per cent of the amount of tax payable on under-reported income. However, as per the ITAT order, the addition made by the TPO has been deleted by the Hon'ble ITAT. Therefore, under-reporting income in this case has become Nil and no penalty is leviable on the assessee. Admittedly, the demand notice issued to the assessee and penalty levied is not leviable on the assessee and in the present circumstances of the case needs to be deleted.*

5. In view of the fair stand taken by the Revenue, and the fact that it is conceded that the penalty order could not have been passed in the facts of the present case, we allow the above Writ Petition in terms prayer clause (a) which reads thus:-

> *"(a) Issue a Writ of Certiorari or any other appropriate Writ, Order or Direction under Article 226 of the Constitution of India, calling for the records pertaining to the penalty order dated 18th March 2025 (Exhibit "F") issued under Section 270A of the Income-tax Act, 1961 and the demand notice dated 18th March 2025 (Exhibit "G") issued under Section 156 of the said Act for Assessment Year 2020-2021, and upon examining the legality, validity and propriety thereof, be pleased to quash and set aside the said impugned orders;"*

6. Since we have quashed the Penalty Order as well as the Demand Notice, the Income Tax Department shall ensure that the aforesaid demand is no longer reflected in their system. This exercise shall be carried out by the Income Tax Department within a period of 2 weeks from today.

7. Rule is made absolute in the aforesaid terms and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

8. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**

Utkarsh