IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.148 OF 2024

Pr Commissioner Of Income
Tax ...Appellant
Versus
Harshad S Mehta Through
Legal Heir Jyoti Mehta ...Respondents

Mr. Suresh Kumar , for Appellant.

Mr. Mahaveer Jain, a/w.Mr. B.M.Biplab i/b. Mahaveer Jain for Respondent

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**CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.**

DATE: 27 MARCH 2026

P.C.

1. This appeal is filed under Section 260A of the Income Tax Act, 1961, challenging the order dated 7th September 2021 passed by the Income Tax Appellate Tribunal. The assessment year involved is 1990–91. The Revenue has preferred the present appeal raising the following substantial questions of law:

> a. Whether in the facts and circumstances of the case and in law, the Hon'ble ITAT was justified in deleting the penalty u/s 271(1) (C) holding that the same is barred by limitation without appreciating the fact that the appeal on quantum is pending before the Hon'ble ITAT and there is no bar on the AO not to levy penalty while appeal is pending and calculating time limit from the date of Ld. CIT (A) order is not as per law?
>
> b. Whether the Hon'ble ITAT is correct in law, in deciding the penalty imposed by allowing the appeal of assessee on technical grounds rather than on merits and consequently dismissing the appeal of Revenue; without appreciating the fact that the issue of validity neither arose from the order of the first appellate authority nor the issue of validity of showcause notice was challenged either before the AO or before the ld. CIT(A) by the assessee.

2. Learned counsel for the assessee has placed on record an order dated 30th March 2022 passed for the same assessment year under Section 271(1)(c) of the Income Tax Act, 1961, whereby the penalty proceedings have been dropped by the Assessing Officer. In view of this development, adjudication of the present appeal is not required. The appeal is accordingly disposed of.

(AARTI SATHE, J.) **(G. S. KULKARNI, J.)**