

IN THE HIGH COURT OF DELHI AT NEW DELHI

12.05.2009

Present : Ms P.L.Bansal and Mr M.P.Gupta, Advocates for the Revenue.

ITA No.1658/2006

MURLI CHAUDHARY

Following passage from the Order of the ITAT is self explanatory:-

'We have heard the arguments of both the sides and also perused the relevant material on record. Even though it is agreed that the aforesaid submissions made in the present application filed by the Revenue are correct. We are of the view that the same cannot give rise to a mistake apparent from record in the order of the Tribunal dated 7.4.2006 as sought to be contended on behalf of the Revenue. Even if the addition of Rs 10,00,272/- in respect of which penalty u/s 271(1)(c) was imposed, had not been deleted by the learned CIT(A) in the quantum proceedings vide an order dated 14.12.1990 and the issue relating to the said addition was actually remanded by him to the file of the AO for reconsideration, the ultimate result was the same in as much as the very basis of imposition of the said penalty did not survive and the said penalty having no legs to stand was liable to be cancelled as rightly held by the Tribunal. It at all, the said addition was again made by the AO in the remand proceedings, he was free to initiate and impose penalty u/s 271(1) (c) in respect of the said addition in accordance with law. In so far as the penalty already imposed by him with reference to the addition made in the original assessment, the same, however, was liable to be cancelled as a result of order of the learned CIT(A) dated 14.12.1990 passed in the quantum proceedings setting aside the said assessment and there was thus no mistake much less a mistake apparent from record in the order of the Tribunal upholding the order of the learned CIT(A) cancelling the said penalty. We, therefore, find no merit in this miscellaneous filed by the Revenue and dismiss the same.'

Even after re-assessment no fresh order imposing penalty has been passed. The initial penalty order was passed on 27.6.1991 and must be deemed to have been inefficacious on 26.6.1992 when re-assessment had been ordered.

No substantial question of law arises for our consideration.

Dismissed.

VIKRAMAJIT SEN, J.

RAJIV SHAKDHER, J.

MAY 12 2009

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