2024:BHC-OS:1779-DB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL (IT) NO.2049 OF 2018
WITH
INCOME TAX APPEAL (IT) NO.2022 OF 2018
WITH
INCOME TAX APPEAL (IT) NO.1867 OF 2018
WITH
INCOME TAX APPEAL (IT) NO.1901 OF 2018

Commissioner of Income Tax-(E), Pune **...Appellant**
Versus
Maharashtra Academy of Engineering and Educational Research **...Respondent**

Mr. Suresh Kumar, for Appellant.
Mr. Riyaz Padvekar, with Mr. Tanzil Padvekar & Ms. Tejal Kharkar, for Respondent.

CORAM: K. R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED: 31st January 2024

PC:-

1. Appellant is impugning the order passed by the Tribunal on 8th December 2017 deleting the penalty imposed under Section 271(1)(c) of the Income Tax Act, 1961. Though five substantial questions of law have been proposed, all are basically on the issue of penalty.

2. Paragraph 19 of the impugned order reads as under:

> *"19. Now coming to the facts of the present case, we find that the Assessing Officer while completing the assessment has not recorded proper satisfaction as to which limb of section 271(1)(c) of the Act has not been fulfilled by the assessee and consequently no proper show cause notice was given to the assessee before initiating the penalty proceedings under section 271(1)(c) of the Act. Even otherwise, the said satisfaction was recorded in respect of the non denial of exemption under section 10(23C) (vi) of the Act and not in*

> *respect of other additions made by the Assessing Officer. Further, the Assessing Officer while levying the penalty under section 271(1)(c) of the Act, in the order imposing the penalty for concealment has held the assessee to have concealed its income or furnished inaccurate particulars of income. In other words, the Assessing Officer has failed to come to a finding as to which limb of section 271(1)(c) of the Act has not been fulfilled by the assessee. In the absence of the same, we find no merit in the order levying penalty under section 271(1)(c) of the Act. First, the satisfaction recorded by the Assessing Officer while completing the assessment is incomplete and further even the order passed for levying the penalty for concealment is both invalid and bad in law. Accordingly, we hold so and direct the Assessing Officer to delete the penalty levied under section 271(1)(c) of the Act for assessment years 2001-02 to 2004-05 and 2006-07 to 2007-08."*

3. Having considered the records and proceedings, we find no infirmity in the order passed by the Tribunal. Therefore, no substantial question of law arises.

4. Appeals dismissed.

(DR. NEELA GOKHALE, J.) **(K. R. SHRIRAM, J.)**