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The Income- Tax Act, 1995

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Supreme Court - Daily Orders

Commr.Of Income Tax vs Shree Chowatia Tubes (India) ... on 6 April, 2017

1.

 IN THE SUPREME COURT OF INDIA
 CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3544 OF 2007

COMMISSIONER OF INCOME TAX

APPELLANT

VERSUS

SHREE CHOWATIA TUBES (INDIA)
PVT.LTD.

RESPONDENT

O R D E R

Heard learned counsel for the appellant. The question raised in this appeal is when the assessed income is loss, as a result of reduction at the time of final assessment as against the amount of loss declared in the Income Tax Return, the penalty under Section 271 (1) (c) of the [Income Tax Act](#), 1961 can be levied or not?

This Court in the case of Commissioner of Income Tax I, Ahmedabad versus Gold Coin Health Food Private Limited reported in 2008 (9) SCC 622 has held that penalty can be levied even if no tax is payable on the total income assessed and the court has analysed the nature of the amendment to come to a conclusion whether it is in reality a clarificatory or declaratory provision.

Signature Not Verified In view of the law laid down in the aforesaid decision, Digitally signed by RASHI GUPTA the Tribunal was not right in cancellation of the penalty Date: 2017.04.11 14:10:28 IST Reason:

under [Section 271](#) (1) (c) of the [Income Tax Act](#), 1961 merely on the ground that no penalty can be levied if returned income and the assessed income is a loss under [Section 271](#) (1) (c) of the [Income Tax Act](#), 1961 in as much as this amendment has been held to be retrospective in operation. In view of the above, the appeal is allowed and the impugned judgment passed by the High Court as also the order of the Tribunal are set aside and the matter is remitted back to the Tribunal to decide on the quantum of the penalty after giving opportunity of hearing to the respondent herein.

