

## **Penalty can't be imposed where Concealment of Income has not been proven**

### Fact of the Case

- ⇔ In the present case the assessee is a person on whom penalty has been imposed without proper ground
- ⇔ The assessing officer had initiated penalty proceedings against the respondent-assessee under Section 271(1)(c) of the Act and issued notices dated 30th December, 2006 under Section 274 read with Section 271(1)(c) of the Act for the respective assessment years.
- ⇔ After considering the reply to the notice, the Assessing Officer levied the penalties for relevant years.
- ⇔ The penalty order was challenged before the CIT(A), which confirmed the said order. Thereafter, it was challenged before the ITAT wherein the appeal of the assessee was allowed and the penalty amount was deleted vide the impugned order.

### Decision of the Case

- ⇔ The division bench of Justice Manmohan and Justice Sanjeev Narula noted that levy of penalty cannot be a matter of course, as sought to be contended by the Revenue. It can only be levied in cases where the concealment of income has been proven.

If the quantum order itself has been challenged and this Court has framed substantial questions of law in the appeal preferred by the respondent-assessee, it shows that the alleged concealment is not final and the issue is disputable.