

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

" C " BENCH, CHENNAI

श्री बी.आर. बास्करन, लेखा सदस्य एवं श्री विकास अवस्थी, न्यायिक सदस्य केसमक्ष

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND
SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 2485/Mds/2014

निर्धारण वर्ष /Assessment Year : 2008-09

The Assistant Commissioner of
Income Tax,
Company Circle VI(2),
Chennai - 600 034.

v.

M/s Shriram City Union Finance
Ltd.,
Mookambika Complex,
4, Lady Desika Road,
Mylapore, Chennai - 600 004.

(अपीलार्थी/Appellant)

PAN : AAACS 7703 H

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri A.V. Sreekanth, JCIT

प्रत्यर्थी की ओर से/Respondent by : Shri R. Sivaraman, Advocate

सुनवाई की तारीख/Date of Hearing : 19.01.2015

घोषणा की तारीख/Date of Pronouncement : 19.01.2015

आदेश / O R D E R

PER B.R. BASKARAN, ACCOUNTANT MEMBER:

The revenue has filed this appeal challenging the order dated 30.07.2014 passed by Ld CIT(Appeals)-VI, Chennai and it relates to the assessment year 2008-09. The revenue is aggrieved

by the decision of Ld CIT(Appeals) in deleting the penalty levied u/s 271(1)(c) of the Act.

2. We heard the parties and perused the record. The assessee had transferred a sum of `32.55 crores to “Statutory Reserve Account” in terms of RBI Act and claimed the same as deduction. The Assessing Officer disallowed the said claim and levied penalty u/s 271(1)(c) of the Act on the said disallowance. It is pertinent to note that the Tribunal had also confirmed the said disallowance.

3. However, the Ld CIT(Appeals) deleted the penalty by following the decision rendered by the Co-ordinate bench of Tribunal in the assessee’s own case in ITA No. 1887 & 1852/Mds/2011 dated 24.01.2012 relating to the assessment year 2005-06 and 2006-07. The revenue is aggrieved by the decision of Ld CIT(Appeals).

4. In AY 2005-06 and 2006-07, we notice that the Co-ordinate bench of Tribunal had deleted the penalty levied on identical reasons by following the decision rendered by the Tribunal in the assessee’s own case in ITA No.1000/Mds/2010 relating to the AY 2003-04. We further notice that the Tribunal has expressed the view that the assessee has not concealed any particulars of income

or furnished any inaccurate particulars of income by claiming the deduction of amount transferred to Statutory reserves. The Tribunal has further noticed that the assessee had claimed the same on the basis of a legal opinion and also on bonafide and honest belief. Under these set of facts, the Tribunal has deleted the penalty levied in AY 2005-06 and 2006-07 for identical disallowance, by following the decision of Hon'ble Supreme Court in the case of Reliance Petro Products Ltd (322 ITR 158)(SC) and also the decision rendered by Hon'ble Jurisdictional Madras High Court in the case of Caplin Point Laboratories (172 Taxman 279), wherein it was held that the penalty was not leviable on the disallowances made on legal grounds. As already stated, the Ld CIT(Appeals) has followed the decision of the Hon'ble Supreme Court rendered in the case of Reliance Petro Products Ltd (supra) and also the decisions given by the co-ordinate benches of Tribunal in the assessee's own case. Further, we notice that it was not the case of the revenue that the assessee has continued to claim the deduction after the decision of Tribunal on this issue, wherein the Tribunal has confirmed the disallowance. Under these set of facts, we do not find any reason to interfere with the order of Ld CIT(Appeals) on this issue.

5. In the result, the appeal of the revenue is dismissed.

Order pronounced on the 19th day of January, 2015 at
Chennai.

Sd/- (विकास अवस्थी) (Vikas Awasthy) न्यायिक सदस्य/Judicial Member	sd/- (बी.आर. बास्करन) (B.R. Baskaran) लेखा सदस्य/Accountant Member
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चेन्नई/Chennai,
दिनांक/Dated, the 19th January, 2015.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-VI, Chennai-34
4. आयकर आयुक्त/CIT-VI, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.