

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ 'आय' मुंबई
IN THE INCOME TAX APPELLATE TRIBUNAL "I" BENCH, MUMBAI

श्री सी. एन. प्रसाद, न्यायिक सदस्य, एवं श्री राजेश कुमार, लेखा सदस्य, के समक्ष
BEFORE SHRI C.N.PRASAD, JM AND SHRI RAJESH KUMAR, AM

आयकर अपील सं/ I.T.A. No. 3037/Mum/2016
(निर्धारण वर्ष / Assessment Year: 2011-12)

ACIT 21(1) Room No.116, 1 st Floor, Piramal Chambers, Parel, Mumbai - 400012	बनाम/ Vs.	M/s. Anand Enterprises 337, Ashish Industrial Estate, Gokhale Road, Dadar(W), Mumbai - 400028
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAAFA1725C		
(पीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Revenue by:	Shri Saurabhkumar Rai
Assessee by:	Shri Sameer G. Dalal

सुनवाई की तारीख / Date of Hearing: 05.01.2017
घोषणा की तारीख /Date of Pronouncement: 04.04.2017

आदेश / O R D E R

PER C.N.PRASAD, JM:

This appeal is filed by the revenue against the order dated 01.02.2016 passed by the Commissioner of Income Tax (Appeals)-33, Mumbai [hereinafter referred to as the "CIT(A)"] for the A.Y. 2011-12.

2. The only grievance of the revenue in its appeal is that the learned CIT(A) is not correct on facts and in law and in deletion the addition of Rs.48,68,713/- made towards commission expenses.

3. The learned counsel for the assessee at the outset submits that similar issue in appeal is decided in assessee's own case in earlier assessment years by the co-ordinate bench in ITA No.3021&6481/Mum/2012 and 6747/Mum/2013 for the assessment years 2008-09 to 2010-11 by order dated 11.08.2016. The learned counsel referring to the said order submits that similar disallowance being the commission paid by the assessee for procurement of orders has been disallowed by the Assessing Officer in the earlier assessment years and the Tribunal allowed the claim of the assessee. Following the decisions of the co-ordinate bench in the assessee's sister concern namely Harrison Garment Division in ITA No.3022/Mum/2012 and 6480/Mum/2012 by order dated 30.04.2014. The learned DR supported the orders of the Assessing Officer. We have heard the rival submissions and perused the orders of the authorities below and the decision of the co-ordinate bench in assessee's own case. From a reading of the co-ordinate bench we find that the issue in appeal is decided in favour of the assessee in assessee's case by the co-ordinate bench for assessment years 2008-09 to 2010-11 where similar disallowance of agency commission paid by the assessee for procurement of orders was disallowed and the Tribunal allowed the claim of the assessee by deleting the disallowance of agency commission. The revenue could not bring on record any distinguishable facts from the earlier years. Therefore, respectfully following the said decisions in assessee's own case for the assessment

years 2008-09 to 2010-11 in ITA No.3021&6481/Mum/2012 and 6747/Mum/2013 dated 11.08.2016, we sustain the order of the learned CIT(A) in allowing the claim of the assessee and deleting the disallowance of Commission

4. In the result, the appeal filed by the **revenue is hereby Dismissed.**

Order pronounced in the open court on 4th April, 2017.

Sd/-
(RAJESH KUMAR)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 4th एप्रिल, 2017
MP

Sd/-
(C.N.PRASAD)

न्यायिक सदस्य/JUDICIAL MEMBER

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai