



आयकर अपीलीय अधिकरण "एफ़" न्यायपीठ मुंबई में।

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "F", MUMBAI**

श्री अमित शुक्ला, न्यायिक सदस्य एवं

श्री अशवनी तनेजा, लेखा सदस्य के समक्ष।

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND SHRI ASHWANI TANEJA, ACCOUNTANT MEMBER**

ITA No. : 2377/Mum/2014

(Assessment year: 2007-08)

विजन M/s Vision, 49/2358, 1 st Floor, Bandra Saikrupa Co-op Hsg. Soc. Ltd., Bandra (East), Mumbai -400 051 स्थयी लेखा सं. PAN: AAEFV 5989 H	Vs	Asst. Commissioner of Income Tax- 19(3), Mumbai
अपीलार्थी (Appellant)		प्रत्यर्थी (Respondent)
Appellant by	:	श्री जिग्नेश नागदा Shri Jignesh Nagda
Respondent by	:	श्री एस श्रीधर Shri S Sreedhar

सुनवाई की तारीख /Date of Hearing : 07-07-2016

घोषणा की तारीख /Date of Pronouncement : 07-07-2016

आदेश
ORDER

श्री अमित शुक्ला, न्या सः
PER AMIT SHUKLA, JM:

The aforesaid appeal has been filed by the assessee against impugned order dated 10.01.2014, passed by CIT(A)-30, Mumbai in relation to the penalty proceedings under section 271(1)(c) for the assessment year 2007-08.

2. The assessee is mainly aggrieved by levy of penalty of Rs.26,25,651/- on account of disallowance of Rs.48,49,600/- claimed by the assessee on payment of professional services rendered by M/s Nova Corporate Services Pvt Ltd.

3. At the outset, the Ld. Counsel submitted that in the quantum proceedings, the Tribunal has deleted the addition, therefore, penalty levied under section 271(1)(c) on such a disallowance cannot be sustained.

4. The Ld. DR also admitted that, this issue has been decided in favour of the assessee by the Tribunal.

5. In view of the aforesaid fact that, in the quantum proceedings, the Tribunal vide order dated 13.04.2016 in ITA No.8501/Mum/2010 has dealt this issue in detail and has deleted the said addition therefore, the entire basis of levying the penalty goes. The final conclusion of the Tribunal in the quantum order deleting the addition reads as under:-

“4.4.3 We find that the factual matrix of the assessee’s in the case on hand to be similar to the facts of the above mentioned cases and therefore respectfully following the decision of the Hon’ble Bombay High Court in the case of CIT vs. Nikunj Eximp Enterprises (P) Ltd. (2013) 372 ITR 619 (Bom) and of the Hon’ble Gujarat High Court in the case of CIT vs. Mundra Port and Sez Ltd. (2014) 45 taxmann.com 381 (Guj) we hold in favour of the assessee and direct the AO to delete the disallowance of Rs.48,49,624/- claimed by the assessee as payment for professional services rendered by Nova Corporate Services P. Ltd. and consequently allow the assessee’s claim. Assessee’s grounds raised at S.No. 1 (‘a’ to ‘e) is allowed.”

Accordingly, penalty levied on such disallowance has no legs to stand. Accordingly, we delete the penalty levied under section 271(1)(c).

6. In the result, appeal of the assessee stands allowed.

Order pronounced in the open court on 7th July, 2016

Sd/-

(अशवनी तनेजा)

लेखा सदस्य

(ASHWANI TANEJA)

ACCOUNTANT MEMBER

Sd/-

(अमित शुक्ला)

न्याईक सदस्य

(AMIT SHUKLA)

JUDICIAL MEMBER

Mumbai, Date: 7th July, 2016

प्रति/Copy to:-

- 1) अपीलार्थी /The Appellant.
 - 2) प्रत्यर्थी /The Respondent.
 - 3) The CIT(A) –30, Mumbai.
 - 4) The CIT–19, Mumbai
 - 5) विभागीय प्रतिनिधि “एफ़”, आयकर अपीलीय अधिकरण, मुंबई/
The D.R. “F” Bench, Mumbai.
 - 6) गार्ड फाईल \
- Copy to Guard File.

आदेशानुसार/By Order

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उप/सहायक पंजीकार

आयकर अपीलीय अधिकरण, मुंबई

Dy./Asstt. Registrar

I.T.A.T., Mumbai

*चव्हान व.नि.स

*Chavan, Sr.PS