

आयकर अपीलिय अधिकरण, मुंबई न्यायपीठ , मुंबई ।

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, MUMBAI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

AND SHRI AMARJIT SINGH, JUDICIAL MEMBER

आयकर अपील सं/ I.T.A. No.5996/Mum/2011

(निर्धारण वर्ष / Assessment Year: 2008-09

Reliance Home Store Ltd., Bldg. No. 4, Ground Floor, Wing 'C' Reliance Corpn. Park, Thane Belapur Road, Navi Mumbai -400 701	बनाम/ Vs.	The ACIT, Circle 10(3), Aayakar Bhavan, Mumbaia-400 020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. :AAABCF 1502G		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
अपीलार्थी ओर से/ Appellant by:		Shri F.V. Irani
प्रत्यर्थी की ओर से/ Respondent by:		Shri Vivek Anand Ojha

सुनवाई की तारीख / Date of Hearing :15.10.2015

घोषणा की तारीख /Date of Pronouncement :15.10.2015

आदेश / O R D E R

PER N.K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the Ld. CIT(A)-6, Mumbai dated 1.10.2012 pertaining to Assessment year 2008-09.

2. The sole grievance of the assessee relates to the disallowance of claim for deduction u/s. 37(1) in respect of revenue expenditure incurred during the year amounting to Rs. 4,08,41,533/-.

3. At the very outset, the Ld. Counsel for the assessee drew our attention to the decision of the Tribunal in the case of M/s. Reliance Footprint Ltd in ITA No. 5997/M/2011 DATED 23.10.2012. It is the say of the Ld. Counsel that the facts in issue in the impugned appeal are identical to the facts considered by the Tribunal in ITA No. 5997/M/2011 (supra). The appeal has been decided by the Tribunal in favour of the assessee and against the Revenue. The Ld. Counsel prayed that on identical set of facts similar view should be taken.

4. Per contra, the Ld. Departmental Representative strongly supported the findings of the AO.

5. We have given a thoughtful consideration to the submissions made by the respective representatives and have carefully perused the orders of the authorities below. We find force in the contention of the Ld. Counsel. The Tribunal in ITA No. 5997/M/2011 has considered identical facts and at para-2.3 of its order, the Tribunal has given the reasoning of the AO for making the impugned disallowance. We find that verbatim reasoning have been given by the AO while making the disallowance in the case under consideration. Not only this, the reasoning given by the First Appellate Authority in the case of M/s. Reliance Footprint Ltd (supra) are verbatim the reasoning given by the First Appellate Authority in the present case.

5.1. Thus, the assessment order and the order of the First Appellate Authority in the case of M/s. Reliance Footprint Ltd (supra) are identical to the assessment order and the order of the First Appellate

Authority in the case in hand and as no distinguishing decision has been brought to our notice, respectfully following the decision of the Co-ordinate Bench in ITA No. 5997/M/2011, we set aside the order of the Ld. CIT(A) and direct the AO to delete the impugned addition.

6. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 15th October, 2015

Sd/-
(AMARJIT SINGH)
न्यायिक सदस्य/JUDICIAL MEMBER लेखा सदस्य / ACCOUNTANT MEMBER
मुंबई Mumbai; दिनांक Dated : 15th October, 2015
व.नि.स./ Rj , Sr. PS

आदेश की प्रतिलिपि अग्रेषित/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