

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ, सी. मुंबई ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "C", MUMBAI**

श्री जोगिन्दर सिंह, न्यायिक सदस्य एवं

श्री अश्वनी तनेजा, लेखा सदस्य, के समक्ष

**Before Shri Joginder Singh, Judicial Member, and
Shri Ashwani Taneja, Accountant Member**

**ITA NO.7202/Mum/2013
Assessment Year- 2009-10**

DCIT, Central Circle-10, Room No.802, 8 th Floor, Old CGO Annexe Bldg, M.K. Road, Mumbai-400020	बनाम/ Vs.	M/s Prudential Leasing Limited, 2 nd Floor, Rehman Bldg, 24, Veer Nariman Road, Fort, Mumbai-400001
(राजस्व /Revenue)		(निर्धारिती /Assessee)
PAN. No.AAACP3118K		

राजस्व की ओर से / Revenue by	Shri O.P. Meena-DR
निर्धारिती की ओर से / Assessee by	Ms. Mrugakshi Joshi

सुनवाई की तारीख / Date of Hearing :	16/11/2015
आदेश की तारीख /Date of Order:	23/11/2015

आदेश / O R D E R

Per Joginder Singh (Judicial Member)

The Revenue is aggrieved by the impugned order dated 23/10/2013 of the Ld. first Appellate Authority, Mumbai. The only ground raised by the Department pertains to deleting the penalty of Rs.9,05,267/- imposed u/s 271(1)(c) of the Income Tax Act, 1961 (hereinafter the Act) by placing

reliance upon the decision from Hon'ble Apex Court in Reliance Petro Products Ltd. 322 ITR 158 (SC).

2. During hearing of this appeal, the ld. DR, Shri O.P. Meena, advanced arguments which are identical to the ground raised. On the other hand, Ms. Mrugakshi Joshi, ld. counsel for the assessee, defended the conclusion arrived at in the impugned order.

2.1. We have considered the rival submissions and perused the material available on record. We note that the addition was made by the ld. Assessing Officer on the ground that the expenses, incurred by the assessee, are not allowable, as no active business was carried out by the assessee and only income earned by the assessee was in the nature of dividend income which is exempt. However, we find that there is not finding in the assessment order that the claimed expenses are bogus. The assessee did not contest the quantum addition due to tax effect below monetary limit. The shops owned by the assessee company are likely to incur some expenses for earning income. No specific finding has been recorded in the assessment order nor any evidence was brought on record suggesting that the claimed expenses were bogus and merely disallowance was made on the plea that no active business is carried out by the assessee. Without going in to much deliberation and in the light of uncontroverted finding in the impugned order, following the decision from Hon'ble Apex Court in Reliance Petro Products,

we affirm the stand of the ld. Commissioner of Income Tax (Appeals). The appeal of the Revenue, is, therefore dismissed.

Finally, the appeal of the Revenue is dismissed.

This Order was pronounced in the open court in the presence of ld. representatives from both sides at the conclusion of the hearing on 16/11/2015.

Sd/-

(Ashwani Taneja)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 23/11/2015

Sunil P.S. नि.स.

Sd/-

(Joginder Singh)

न्यायिक सदस्य / JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT, Mumbai.
4. आयकर आयुक्त / CIT(A)- , Mumbai
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.