

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ 'F', मुंबई ।
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "F", MUMBAI

Before Shri Shamim Yahya, AM & Shri Sandeep Gosain, JM

ITA No.4258/Mum/2016 : Asst.Year 2008-2009

M/s.Bharat Enterprises B-219, Graze Plaza, S.V.Road Jogeshwari (West) Mumbai – 400 102 PAN : AAEFB2174L.	बनाम/ Vs.	The Dy.Commissioner of Income-tax 24(1) Mumbai New : Asst.Commissioner of Income-tax Circle 31(1), Mumbai.
(अपीलार्थी /Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से /Appellant by : **Shri V.R.Sabnis**

प्रत्यर्थी की ओर से /Respondent by : **Ms.Pooja Swaroop**

सुनवाई की तारीख / Date of Hearing : 24.05.2017	घोषणा की तारीख / Date of Pronouncement : 05.06.2017
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आदेश / ORDER

Per Shamim Yahya, AM

This appeal by the assessee is directed against order of learned CIT(A) dated 03.03.2016 and pertains to assessment year 2008-2009.

2. The issue raised is that learned CIT(A) erred in holding that the penalty of Rs.13,59,600 imposed by the Assessing Officer.

3. At the outset in this case, learned Counsel of the assessee submitted that the quantum appeal with reference to which this penalty has been levied has been remitted by the ITAT for fresh consideration before the Assessing Officer. Hence, learned Counsel pleaded that this issue may be set aside to the file of the Assessing Officer to be considered afresh after passing of the order by the Assessing Officer in the quantum appeal.

4. Per contra, learned Departmental Representative fairly agreed to the proposition.

5. We find that the ITA No.7278/Mum/2012 in the quantum appeal in this regard has been set aside by this Tribunal to the file of the Assessing Officer for fresh consideration vide order dated 21.10.2016 Hence the issue raised in this appeal also needs to be remitted to the file of the Assessing Officer. Accordingly, we set aside the issue to the file of the A.O. The Assessing Officer shall consider the issue afresh after passing the order in consequence to the set aside order of the Tribunal as above.

6. In the result, this appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced on this 05th day of June, 2017.

Sd/-
(Sandeep Gosain)
JUDICIAL MEMBER

Sd/-
(Shamim Yahya)
ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 5th June, 2017.

Devdas*

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)-42, 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