

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “B” BENCH AHMEDABAD

BEFORE, SHRI S. S. GODARA, JUDICIAL MEMBER
AND SHRI MANISH BORAD, ACCOUNTANT MEMBER

ITA No. 3076/Ahd/2015
(Assessment Year: 2011-12)

M/s. Asian Food Industries
Opp: Escort Tractors, N.H.No.8,
Post Dabhan – 387320, Tal: Nadiad

Appellant

Vs.

Asstt. C.I.T.,
Kheda Circle, Nadiad

Respondent

PAN: AA-EFA1288Q

आवेदक की ओर से/By Assessee : Shri D. K. Parikh, A.R.
राजस्व की ओर से/By Revenue : Shri Prasoon Kabra, Sr. D.R.
सुनवाई की तारीख/Date of Hearing : 28.12.2017
घोषणा की तारीख/Date of
Pronouncement : 29.12.2017

ORDER

PER S. S. GODARA, JUDICIAL MEMBER

This assessee's appeal for assessment year 2011-12 arises against the CIT(A)-2, Vadodara's order dated 10.08.2015 in case no. CAB/(A)-2/339/14-15, upholding Assessing Officer's action imposing penalty of Rs.3,39,846/- in respect of quantum disallowance of depreciation claim coming to Rs.3,39,846/- in

assessment order dated 26.03.2014, in proceedings u/s.271(1)(c) of the Income Tax Act, 1961; in short “the Act”.

We have heard both the parties. Case file perused.

2. Relevant facts appear to be in a narrower compass. The assessee had claimed depreciation on two trucks purchased worth Rs.45,30,930/-. It claimed consequential depreciation on the ground that the said assets had been put to use for its business purposes in the relevant financial year. The Assessing Officer noticed during scrutiny that the assessee had paid vehicle tax on 15.04.2011 followed by registration thereof on 19.04.2011. He therefore disallowed depreciation claim in question of Rs.3,39,846/-. This followed the impugned penal action being finalized in penalty order dated 26.09.2014 herein the Assessing Officer held the assessee to have furnished inaccurate particulars as well as concealed its income so as to impose the impugned penalty as upheld in the lower appellate proceedings.

3. We have given our thoughtful consideration to rival contentions against and in support of the impugned penalty. There is no dispute that the sole issue relevant to the impugned penalty is that of assessee’s depreciation claim on the above two trucks disallowed in quantum proceedings on the ground that the same had been registered in April 2011 (supra). We however notice from the case file that the relevant purchase bill at page 24 & 25 are dated 22.03.2011 i.e. in relevant previous year. It therefore emerges that the assessee’s impugned depreciation claim based on the fact that the relevant trucks formed part of the block of assets in question immediately after purchase is neither false nor baseless. The question however is of the entitlement year only. We accordingly are of the opinion that the same cannot be treated as either furnishing of inaccurate particulars or concealment of income u/s.271(1)(c) of the Act as per hon’ble apex court’s landmark judgment in

CIT vs. Reliance Petroproducts (P) Ltd. 322 ITR 158 (SC). We therefore accept assessee's arguments. The impugned penalty is deleted.

4. This assessee's appeal is allowed.

[Pronounced in the open Court on this the 29th day of December, 2017.]

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER
Ahmedabad: Dated 29/12/2017

Sd/-
(S. S. GODARA)
JUDICIAL MEMBER

True Copy

S.K.SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।