



ITA.No.1079/Mum/2015
Alag Securities Private Limited
Assessment Year-2010-11

आयकर अपीलीय अधिकरण "ई" न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"E" BENCH, MUMBAI

श्री डी.टी. गरासिया, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
BEFORE SHRI D.T. GARASIA, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./I.T.A. No.1079/Mum/2015
(निर्धारण वर्ष / Assessment Year: 2010-11)

Alag Securities Private Limited Block H, Shri Sadashiv CHS Ltd 6 th Road, Santacruz(E) Mumbai-400 055	बनाम/ Vs.	Assistant Commissioner Of Income Tax Central Circle-46 Room No.659,6 th Floor Aayakar Bhavan, M.K.Road Mumbai-400 020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAICA-0101-F		
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Mukesh Chokshi,Ld.AR
Revenue by	:	V.Justin, Ld. DR

सुनवाई की तारीख / Date of Hearing	:	18/12/2017
घोषणा की तारीख / Date of Pronouncement	:	17/01/2018

आदेश / O R D E R

Per Manoj Kumar Aggarwal (Accountant Member)

1. The captioned appeal by assessee for Assessment Year [AY] 2010-11 contest the order of the *Ld. Commissioner of Income-Tax (Appeals)-38 [CIT(A)], Mumbai, Appeal No. CIT(A)-38/IT-1028/2013-14* dated 14/11/2014 *qua* confirmation of penalty u/s 271AAA for Rs.11,50,670/-. The assessment for impugned AY was framed by *Ld.*



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Deputy Commissioner of Income Tax Central Circle-46, Mumbai u/s 143(3) of the Income Tax Act,1961 on 08/12/2011 whereas penalty u/s 271AAA was levied by Ld. Assistant Commissioner of Income Tax Central Circle-46 vide order dated 20/03/2014. The assessee suffered quantum additions of Rs.115.06 Lacs and consequently saddled with penalty u/s 271AAA computed @10% amounting to Rs.11,50,657/-.

2. The director of the assessee company [AR], at the outset, drew our attention to the order of Tribunal ITA No. 6055/Mum/2012 order dated 07/07/2016 against quantum addition and pointed out that since the quantum has been restored to the file of Ld. AO, the impugned penalty do not survive. The Ld. DR fairly conceded the same. The copy of the Tribunal's order has been placed before us.

3. Upon perusal of the same, we concur with the stand of Ld. AR. The quantum addition, vide paragraph no. 7 of the cited order, has been set aside for fresh adjudication with certain directions. Since, quantum addition has been set aside, the consequential penalty do not survive. Hence, by deleting the same, we allow assessee's appeal. Needless to say that the revenue is free to re-initiate the same on the basis of outcome of quantum additions in set aside proceedings.

4. Resultantly, the assessee's appeal stands allowed.

Order pronounced in the open court on 17th January,2018

Sd/-
(D.T. Garasia)
न्यायिक सदस्य / **Judicial Member**

Sd/-
(Manoj Kumar Aggarwal)
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 17.01.2018
Sr.PS:- *Thirumalesh*



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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 – concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**