

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: CHENNAI**

श्री अब्राहम पी. जॉर्ज, लेखासदस्य एवं  
श्री जॉर्ज माथन, न्यायिक सदस्य के समक्ष

**BEFORE SHRI ABRAHAM P.GEORGE, ACCOUNTANT MEMBER AND  
SHRI GEORGE MATHAN, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.2735/Mds/2014  
निर्धारण वर्ष /Assessment Year: 2007-08

M/s.Bhelsia Design Cluster,  
EC-99, Developed Plot Estate,  
Thuvakudi,  
Trichy-620 015.

**Vs.** The Income Tax Officer,  
Ward IV(1),  
Trichy.

**[PAN: AAGFB 8931 P]**

**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by

: Mr.S.Sridhar, Adv.

प्रत्यर्थी की ओर से /Respondent by

: Mr.N.Madhavan, ACIT

सुनवाई की तारीख/Date of Hearing

: 08.01.2018

घोषणा की तारीख /Date of Pronouncement

: 08.01.2018

**आदेश / ORDER**

**PER GEORGE MATHAN, JUDICIAL MEMBER:**

ITA No.2735/Mds/2014 is an appeal filed by the assessee against the Order of the Commissioner of Income Tax (Appeals), Tiruchirapalli, in ITA No.110/10-11/CIT(A)/Try. dated 21.05.2014 against the confirmation of the penalty levied u/s.271(1)(d) of the Act for the AY 2007-08.

2. The appeal is delayed by 70 days. Necessary Affidavit has been filed. The Affidavit has not been shown to be wrong or false.

Consequently, the delay is condoned and the appeal disposed off on merits.

3. Shri N.Madhavan, ACIT represented on behalf of the Revenue and Shri S.Sridhar, Adv., represented on behalf of the assessee.

4. It was submitted by the Ld.AR that in the course of assessment, it was noticed that the assessee had incurred expenditure on account of hospitality and gifts in respect of a meeting held in a Hotel. It was a submission that in the course of assessment, the assessee had specifically agreed to the addition on the ground that the same was an omission or an error with no other intent. It was a submission that the penalty u/s.271(1)(d) of the Act came to be initiated and levied on the assessee. The assessee had submitted in the course of penalty proceedings that it was only a technical mistake or an error and that penalty was not liable to be levied on the assessee. It was a submission that the submissions of the assessee are rejected and penalty levied. It was a submission that on appeal, the Ld.CIT(A) had also confirmed the levy. It was a submission that this was a mistake on the part of the assessee and that all facts were placed before the AO. It was a submission that in view of the decision of the Hon'ble Supreme Court in the case of Price Water House Coopers Pvt. Ltd. v. CIT reported in [2012] 348 ITR 306, penalty as levied may be cancelled.

5. In reply, the Ld.DR vehemently supported the order of the AO and the Ld.CIT(A).

6. We have considered the rival submissions. A perusal of the Assessment Order shows that the AO has recorded the expenses on account of the hospitality and gifts was incurred in relation to the meeting held in a hotel and that the gifts represented the value of gold and silver coins presented as a token of mementos to various persons. The fact that the AO has recorded that the gifts were presented as token of mementos to various persons and not to the employees of the assessee clearly shows that the whole amount cannot be brought under the fringe benefit. This being so, considering the fact that the details of the expenditure had already been made available in the accounts of the assessee, it can fairly be concluded that the non-inclusion of the same for the purpose of fringe benefit computation is an oversight by mistake and not a contumacious conduct. This being so, applying the principles laid down by the Hon'ble Supreme Court in the case of Price Water House Coopers Pvt. Ltd. referred to supra, the penalty as levied on the assessee stands deleted.

7. In the result, the appeal filed by the assessee stands allowed.

Order pronounced in the Open Court on January 08, 2018, at Chennai.

**Sd/-**

**(अब्राहम पी. जॉर्ज)**

**(ABRAHAM P.GEORGE)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

**Sd/-**

**(जॉर्ज माथन)**

**(GEORGE MATHAN)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: January 08, 2018.

TLN

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF