

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ "ए" अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD

BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER AND
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 1186/Ahd/2015

निर्धारण वर्ष/ Assessment Year : 2008-2009

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| Shreno Limited, Alembic Road, Baroda-390 016 PAN : AABCA 7953 Q | Vs | ACIT, Circle-4, Baroda |
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आयकर अपील सं./ ITA No. 1271/Ahd/2015

निर्धारण वर्ष/ Assessment Year : 2008-2009

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| ACIT, Circle-4, Baroda | Vs | Shreno Limited, Alembic Road, Baroda-390 016 PAN : AABCA 7953 Q |
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| अपीलार्थी/ (Appellant) | | प्रत्यर्थी/ (Respondent) |
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| Assessee by : | Smt. Urvashi Shodhan, AR |
| Revenue by : | Shri Rajesh Meena, Sr DR |

Date of Hearing : 05/04/2018

Date of Pronouncement in Court : 05/04/2018

आदेश/O R D E R

PER RAJPAL YADAV, JUDICIAL MEMBER:

The assessee and Revenue are in cross-appeals against the order of the learned CIT(A)-2, Vadodara dated 16.02.2015 passed for Assessment Year 2008-09.

2. The grievances in the respective appeals relate to confirmation/deletion of penalty which was levied by the Assessing Officer under Section 271(1)(c) of the Income-tax Act, 1961 (hereinafter referred to as "the Act").

3. It emerges out from the record that the Assessing Officer visited the assessee with the penalty under Section 271(1)(c) of the Act on two counts; (a) disallowance u/s 14A of the Act for Rs. 77,45,350/- and (b) foreign

travelling expenses amounting to Rs.9,74,612/-. With regard to the deletion of penalty on disallowance under Section 14A of the Act, the Department is in appeal and with regard to confirmation of penalty on disallowance on account of foreign travelling expenditure, the assessee is in appeal before us.

4. At the time of hearing before us, it has been brought to our notice that both the aforesaid additions have been deleted by the Tribunal vide ITA No. 1452/Ahd/2012, decided on 27.12.2016. Copy of the Tribunal's order has been placed on record. We find that sub-clause (iii) of Section 271(1)(c) provides mechanism for quantification of penalty. It contemplates that the assessee would be directed to pay a sum in addition to taxes, if any, payable him, which shall not be less than, but which shall not exceed three times the amount of tax sought to be evaded by reason of concealment of income and furnishing of inaccurate particulars of income. In other words, the quantification of the penalty is depended upon the additions made to the income of the assessee. Since basis for visiting the assessee with penalty has been extinguished by deleting additions by the Tribunal in its order dated 27.12.2016 (supra) in the quantum appeal of the assessee, the impugned penalty is *non est*, and accordingly penalty under Section 271(1)(c) of the Act stands cancelled. Appeal of the assessee is thus allowed and that of Revenue is dismissed.

5. In the result, appeal of the assessee is allowed; whereas the appeal of the Revenue is dismissed.

Order pronounced in the Court on 5th April, 2018 at Ahmedabad.

Sd/-

Sd/-

(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

(RAJPAL YADAV)
JUDICIAL MEMBER

Ahmedabad; Dated 05/04/2018

Bija T. S. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

TRUE COPY

उप/सहायक पंजीकार (Dy./ Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad