

आयकर अपीलीय अधिकरण पुणे न्यायपीठ "ए" पुणे में
**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE**

सुश्री सुषमा चावला, न्यायिक सदस्य एवं श्री अनिल चतुर्वेदी, लेखा सदस्य के समक्ष
BEFORE MS. SUSHMA CHOWLA, JM AND SHRI ANIL CHATURVEDI, AM

आयकर अपील सं. / ITA No.1079/PUN/2015

निर्धारण वर्ष / Assessment Year : 2007-08

The Jt. Commissioner of Income Tax
(International Taxation), Pune

.... अपीलार्थी/Appellant

Vs.

Tata Technologies Ltd.,
(formerly Patni Computer Systems Ltd.)
Plot No.25, Rajiv Gandhi Infotech Park,
Hinjewadi,
Pune – 411057

.... प्रत्यर्थी / Respondent

PAN: AAAC3092N

अपीलार्थी की ओर से / Appellant by : Shri Achal Sharma

प्रत्यर्थी की ओर से / Respondent by : Shri Snehal Talathi

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| सुनवाई की तारीख / Date of Hearing : 23.04.2018 | घोषणा की तारीख / Date of Pronouncement: 27.04.2018 |
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आदेश / ORDER

PER SUSHMA CHOWLA, JM:

The appeal filed by the Revenue is against the order of CIT(A)-13, Pune, dated 20.05.2015 relating to assessment year 2007-08 against levy of penalty under section 271C of the Income-tax Act, 1961 (in short 'the Act').

2. The Revenue has raised the following grounds of appeal:-

1. *On the facts and circumstances of this case, the Ld. CIT(A) erred in holding that no penalty u/s 271C is leviable.*
2. *On the facts and circumstances of this case, the Ld. CIT(A) erred in holding that no penalty u/s 271C is leviable despite holding that tax and interest u/s 201(1) and 201(1A) was correctly levied by the AO.*

3. *On the facts and circumstances of this case, the Ld. CIT(A) erred in applying the section of 273B despite the fact that the recourse was available to the assessee u/s 248 of the Act.*

3. The appeal filed by Revenue is against deletion of penalty levied under section 271C of the Act. The Revenue is aggrieved by the order of CIT(A) in holding that no penalty under section 271C of the Act was leviable despite upholding charge of tax and interest under section 201(1) and 201(1A) of the Act.

4. The learned Authorized Representative for the assessee pointed out that the issue on merits has been decided by the Tribunal in favour of assessee and the assessee has been held not to have defaulted under section 201(1) of the Act and consequently, interest charged under section 201(1A) of the Act has been deleted. Hence, no merit in levy of penalty.

5. The learned Departmental Representative for the Revenue fairly accepted that the issue on merits has been decided by the Tribunal vide order dated 05.04.2018 in the case of assessee.

6. We have heard the rival contentions and perused the record. The limited issue which arises in the present appeal is in respect of levy of penalty under section 271C of the Act. The assessee was held to have defaulted in deduction of tax at source on purchase of software licence as per provisions of section 9(1)(vi) of the Act. The Assessing Officer thus, held the assessee to be in default and charged tax under section 201(1) of the Act and interest under section 201(1A) of the Act.

7. The Tribunal in ITA No.1433/PUN/2014, relating to assessment year 2007-08, vide order dated 05.04.2018 held the assessee not to have defaulted in non-deduction of tax at source out of payment made for purchase of software from different entities. Consequently, the Tribunal held the assessee not to be in default under section 201(1) of the Act and also that there was no merit in charging interest under section 201(1A) of the Act. Once the demand under section 201(1) of the Act and interest under section 201(1A) of the Act has been deleted, then there is no merit in levy of penalty under section 271C of the Act. The CIT(A) however, decided the issue on merits whether penalty under section 271C of the Act is leviable even if the assessee is held to be in default under section 201(1) / 201(1A) of the Act. The Revenue is in appeal against the order of CIT(A) in this regard. However, since the dispute has been decided in favour of assessee, there is no merit in holding the assessee to be in default. We thus, dismiss the grounds of appeal raised by the Revenue.

8. In the result, the appeal of Revenue is dismissed.

Order pronounced on this 27th day of April, 2018.

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| Sd/- (ANIL CHATURVEDI) लेखा सदस्य / ACCOUNTANT MEMBER | Sd/- (SUSHMA CHOWLA) न्यायिक सदस्य / JUDICIAL MEMBER |
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पुणे / Pune; दिनांक Dated : 27th April, 2018.

GCVSR

आदेश की प्रतिलिपि अद्येषित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT(A)-13, Pune;
4. The CIT (IT/TP), Pune;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "ए" / DR 'A', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune