



ITA No.6630/Mum/2012
Pantaloon Retail (India) Ltd.
Assessment Year-2007-08

आयकर अपीलीय अधिकरण “एफ” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH, MUMBAI

श्री शक्तिजीत दे, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE SHRI SAKTIJIT DEY, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./I.T.A. No.6630/Mum/2012
(निर्धारण वर्ष / Assessment Year: 2007-08)

Deputy Commissioner of Income Tax -8(2) Room No.209/216A, 2 nd Floor Aaykar Bhawan, M.K.Road Mumbai-400 020	बनाम/ Vs.	Pantaloon Retail (India) Limited Knowledge House, Shyam Nagar Off.Jogeshwari Vikroli Link Road Jogeshwari (E) Mumbai-400 060
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAACP-6317-L		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Dinkle Hariya, Ld. AR
Revenue by	:	S.Padmaja, Ld. CIT DR

सुनवाई की तारीख/ Date of Hearing	:	25/07/2018
घोषणा की तारीख / Date of Pronouncement	:	31/07/2018

आदेश / ORDER

Per Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment Year [AY] 2007-08 contest the order of Ld. Commissioner of Income-Tax (Appeals)-17 [CIT(A)], Mumbai, *Appeal No.CIT(A)-17/IT-73/2011-12 dated 29/08/2012 qua* deletion of penalty u/s 271(1)(c) for Rs.841.50 Lacs as levied by Ld. AO vide order dated 03/08/2011. The aforesaid penalty has been levied



against quantum addition of Rs.25 Crores stated to be received by the assessee from an entity namely *Future Media (I) Ltd.* and claimed to be not taxable, being capital receipts in nature. The revenue, treating the same as revenue in nature, has added the same to the income of the assessee vide assessment u/s 143(3), order dated 30/12/2009. The Ld. CIT(A), finding the issue to be contentious and debatable, deleted the impugned additions, against which the revenue is in further appeal before us.

2. The Ld. Authorized Representative for the Assessee [AR], *Ms. Dinkle Hariya*, at the outset, drew attention to the fact that the assessee contested the quantum addition with success before this Tribunal vide ITA No.5306/Mum/2011 dated 26/04/2017, a copy of which has been placed on record. The Ld. Departmental Representative [DR] controverted the same by submitting that that the same has not attained finality yet.

3. Upon due consideration, we find that the quantum additions against which the assessee has been saddled with impugned penalty have been deleted by the Tribunal. The revenue is unable to demonstrate, in any manner, that the ratio of the aforesaid decision has been *stayed / reversed / over-ruled* by any higher judicial authority. In view of the same, the impugned penalty does not survive and therefore, we see no reason to interfere with the order of Ld. first appellate authority, in this regard.



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4. Resultantly, the revenue's appeal stand dismissed.

Order pronounced in the open court on 31st July, 2018

Sd/-

(Saktijit Dey)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 31.07.2018

Sr.PS:-Thirumalesh

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai