

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

सुश्री सुषमा चावला, न्यायिक सदस्य एवं, श्री डी. करुणाकरा राव, लेखा सदस्य के समक्ष
BEFORE MS. SUSHMA CHOWLA, JM AND SHRI D. KARUNAKARA RAO, AM

आयकर अपील सं. / ITA No.2180/PUN/2016

निर्धारण वर्ष / Assessment Year : 2009-10

Ritu Subash Cipy
(Prop. Speciality Coatings)
C/o Cipy Polyurethanes Pvt. Ltd.,
T-127, MIDC-Bhosari,
Baner, Pune - 411026

.... अपीलार्थी/Appellant

PAN: AEHPC9667A

Vs.

The Asst. Commissioner of Income Tax,
Circle-8, Pune

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Shri D.R. Barve
प्रत्यर्थी की ओर से / Respondent by : Shri Sanjeev Ghei

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| सुनवाई की तारीख / Date of Hearing : 25.10.2018 | घोषणा की तारीख / Date of Pronouncement: 31.10.2018 |
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आदेश / ORDER

PER SUSHMA CHOWLA, JM:

The appeal filed by assessee is against order of CIT(A)-9, Pune, dated 28.06.2016 relating to assessment year 2009-10 against levy of penalty under section 271(1)(c) of the Income-tax Act, 1961 (in short 'the Act').

2. The assessee has raised the following ground of appeal:-

- 1) *The learned Commissioner of Income-tax (Appeals)-9, Pune, has erred in upholding the decision of AO and confirming the penalty u/s 271(1)(c) of the Income-tax Act, 1961 amounting to Rs.77,420/-, even though factually all the relevant details were made available during the course of assessment proceedings and there was no "concealment of income" as well as "submission of wrong particulars". Therefore, the unwarranted penalty of Rs.77,420/- needs cancellation.*

3. The issue raised in the present appeal is against penalty levied under section 271(1)(c) of the Act.

4. The learned Authorized Representative for the assessee pointed out that the quantum addition has been deleted by Tribunal and consequent thereto, there is no merit in levy of penalty under section 271(1)(c) of the Act.

5. The learned Departmental Representative for the Revenue fairly admitted that quantum addition has been deleted by Tribunal.

6. We have heard the rival contentions and perused the record. The sole addition made in the hands of assessee was on account of difference in ITS data of ₹ 2,27,773/-. The Assessing Officer had initiated penalty proceedings against the said addition. However, the Tribunal in ITA No.1816/PUN/2014, relating to assessment year 2009-10, vide order dated 05.05.2017 has deleted the addition made in the hands of assessee. Meanwhile, the Assessing Officer had levied penalty under section 271(1)(c) of the Act which has been confirmed by CIT(A). Since the basis for levy of penalty do not stand, there is no merit in

the aforesaid levy of penalty under section 271(1)(c) of the Act. Accordingly, the same is deleted. The ground of appeal raised by assessee is thus, allowed.

7. In the result, appeal of assessee is allowed.

Order pronounced on this 31st day of October, 2018.

Sd/-
(D.KARUNAKARA RAO)
लेखा सदस्य / **ACCOUNTANT MEMBER**

Sd/-
(SUSHMA CHOWLA)
न्यायिक सदस्य / **JUDICIAL MEMBER**

पुणे / Pune; दिनांक Dated : 31st October, 2018.

GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT(A)-9, Pune;
4. The Pr.CIT-5, 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