

आयकर अपीलार्थ अधकरण, अहमदाबाद ँयायपीठ ।
IN THE INCOME TAX APPELLATE TRIBUNAL,
"D" BENCH, AHMEDABAD

BEFORE SHRI PRAMOD KUMAR, ACCOUNTANT MEMBER
AND
Ms MADHUMITA ROY, JUDICIAL MEMBER

अपील सं./ITA No.224/Ahd/2017
जधरण वष/Asstt. Year:1998-1999

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| Income tax Officer, Ward-1(1)(2), Ahmedabad | Vs | M/s.Busy Bee Engineering Pvt. Ltd. C/o Mahesh S. Kamdar, Flat No.A/601, Silicon Valley Shopping Centre, Co-op. Society, Satellite Road, Ahmedabad PAN AABCB2108C |
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| (Applicant) | (Responent) |
|---------------|----------------------------|
| Revenue by : | Shri Lalit P. Jain, Sr. DR |
| Assessee by : | Shri Anil R. Shah, AR |

सुनवाई क तारख/Date of Hearing : 30/07/2018
घोषणा क तारख /Date of Pronouncement: 11/10/2018

आदेश/O R D E R

PER Ms MADHUMITA ROY, JUDICIAL MEMBER:

The instant appeal preferred by the Revenue before us is against the order dated 25/11/2016, passed by the Learned Commissioner of Income Tax(Appeals)-4, Ahmedabad, arising out of the penalty order dated 25/03/2013, passed u/s.271(1)(c) of the Income tax Act 1961, framed by the Income Tax Officer, Ward-1(2), Ahmedabad, for assessment year 1998-1999.

2. This file has chequered history. The assessee company filed its return of income for assessment year 1998-1999 on 30/11/1998, declaring total loss at Rs.(-)4,15,862/-. Finally, order u/s.143(3) of the Act, was passed on 28/03/2001, determining the total income at Rs.4,16,81,150/- by making certain additions by the Ld.Assessing Officer. Against the same the assessee company went in appeal before Ld.CIT(A) and again to the Ld.ITAT. By and under the order dated 23/12/2009. The Ld.ITAT, remitted the matter to the file of the Ld.Assessing Officer, with certain directions upon setting aside the order passed by the Ld.CIT(A). Subsequently, notice u/s.143(2) of the Act, was again issued on 01/07/2010, and finally additions were made by the ITO,1(2), Ahmedabad, against which the assessee went on appeal before the Ld.CIT(A), who in turn confirmed the same by and under the order dated 08/02/2012. Simultaneously, a penalty proceedings was also initiated by the Ld.AO culminating into the order of imposition of penalty dated 25.03.2013. On the other hand the appeal preferred by the assessee challenging the validity of the order dated 08/02/2012, passed by the Ld.CIT(A), confirming the quantum order has been allowed by the Co-ordinate Bench of this Ld.Tribunal on 18/10/2016. Consequentially, the additions were deleted.

3. Since the quantum order was quashed ultimately by the Ld.ITAT, the appeal preferred by the assessee against the order of penalty u/s.271(1)(c) of the Act, dated 25/03/2013, though taken up by the Ld.CIT(A), the same was dismissed as infructuous as no penalty is leviable against the appellant. The Revenue has come up before us against the said order of dismissal in the penalty appeal.

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4. At the time of hearing of the instant appeal the Ld.representative of the assessee narrated the entire facts before us, as already been stated hereinbefore. He thus, prayed for dismissal of this appeal preferred by the Revenue. The Ld.Departmental Representative, however, relied upon the order passed by the Ld.AO. After hearing the Ld.Counsel appearing for the parties and upon going through the relevant materials available on records and taking into consideration the particular facts of the matter, we find no infirmity in the order passed by the Ld.CIT(A) in dismissing the appeal preferred by the assessee when the very basis of such penalty appeal being the quantum order has been quashed by the Ld.ITAT by and under the order dated 18/10/2016, which is on record before us

5. We, therefore, dismiss the appeal preferred by the Revenue.

Order pronounced in the Court on 11/10/2018 at Ahmedabad.

**-Sd-
(PRAMOD KUMAR)
ACCOUNTANT MEMBER**

**-Sd-
(Ms MADHUMITA ROY)
JUDICIAL MEMBER**

Ahmedabad; Dated 11/10/2018

Manish

आदेश का प्रतिलिपि अपेक्षित/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), Ahmedabad
5. त्रिभागीय प्रत्यक्ष, आयकर अपीलार्थी अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्डफाइल / Guard file.

आदेशानुसार/ BY ORDER,

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