

आयकरअपीलीयअधिकरण, अहमदाबादन्यायपीठ 'B'- अहमदाबाद।

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD – BENCH 'B'

BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER
&SMT. MADHUMITA ROY, JUDICIAL MEMBER

आयकरअपीलसं.ITA No. 2161/Ahd/2017

निर्धारणवर्ष/Asstt. Year: 2011-12

DCIT (Exemptions), Cir-1, Ahmedabad	Vs.	Gujarat Industrial Development Corporation 2 nd Floor, Block No. 3,4,5 Udhyog Bhavan, Gandhinagar- 382 011 PAN: AAB CG8 033 D
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Krishna Vyas, CIT DR
Revenue by :	Shri S.N. Soparkar & Pavin Shah, ARs

सुनवाईकीतारीख/Date of Hearing : 08/02/2019

घोषणाकीतारीख/Date of Pronouncement: 27/03/2019

आदेश/ORDER

PER MADHUMITA ROY- JM:

The instant appeal filed by the Revenue against the order dated 25.07.2017 passed by the CIT(A)-9, Ahmedabad u/s. 271(1)(c) of the Income Tax Act 1961 (hereinafter referred to as 'the Act') for assessment year 2011-12.

2. The assessee initially filed its return of income on 30.09.2011 showing deficit of Rs. 1241,42,01,337/- which was finalized u/s. 143(3) of the Act on 16.01.2014 determining total income of Rs. 627,67,58,990/-. The Ld. AO also initiated penalty proceedings u/s. 271(1)(c) of the Act.

3. By and under an order dated 28.03.2016 the DCIT (Exemptions) Circle-1, Ahmedabad imposed a lump sum penalty of Rs. 9,96,210,794/- u/s. 271(1)(c) of the Act. In appeal the same was deleted by the order impugned relying upon the order

passed by the Hon'ble Tribunal dated. 10.01.2017 in quantum appeal copy whereof was handed over to as at the time of hearing by the Ld. AR.

The Ld. Counsel appearing for the assessee submitted before us that since the quantum appeal has been deleted by the Hon'ble Tribunal the penalty levied by the AO is not sustainable and hence he relied upon the order passed by the Ld. CIT(A)

4. Having heard the Ld. Counsel appearing for the parties, having heard to the facts and circumstances of the case we find that since the quantum appeal has been deleted by the Hon'ble Tribunal the appeal preferred by the assessee against the order of penalty has been rightly allowed by the Ld. CIT(A). In fact the appeal preferred before us by Revenue become infructuous.

5. Hence the appeal is dismissed as infructuous.

[Order pronounced in the Court on 27-03-2019.]

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

Ahmedabad; Dated 27/03/2019

Tanmay

True Copy

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. संबंधितआयकरआयुक्त/ Concerned CIT
4. आयकरआयुक्त(अपील) / The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण/ DR, ITAT,
6. गार्डफाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, अहमदाबाद / ITAT, Ahmedabad