

आयकर अपील अाधिकरण, अहमदाबाद ढायापीठ
IN THE INCOME TAX APPELLATE TRIBUNAL,
"A" BENCH, AHMEDABAD
BEFORE, SHRI A.D. JAIN, VICE PRESIDENT
And
SHRI WASEEM AHMED, ACCOUNTANT MEMBER
आयकर अपील सं./ITA No.604/AHD/2016
ढाथाण वष/Asstt. Year: 2008-2009

D.C.IT, Circle-1(3), Ahmedabad.	Vs.	Shri Narendrasingh L. Rathod, 116/3, Sunil Bhavan, M.G. Haveli Road, Manekchok, Ahmedabad-380001. PAN: ADXPR1249L
---------------------------------------	-----	--

(Applicant)		(Respondent)
--------------------	--	---------------------

Revenue by :	Shri B.P. Shrivastava, Sr. D.R
Assessee by :	Shri S.N. Divatia, A.R

सुनवाई का तारख/Date of Hearing : 19/06/2019

घोषणा का तारख /Date of Pronouncement: 19/06/2019

आदेश/O R D E R

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The captioned appeal has been filed at the instance of the Revenue against the order of the Learned Commissioner of Income Tax (Appeals)-10, Ahmedabad[Ld.CIT(A) in short], dated 01/01/2016 arising in the matter of assessment order passed under s. 143 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") dated 27/12/2010 relevant to Assessment Year (AY) 2008-09.

The Revenue has raised the following grounds of appeal:

1. *That the ld.CIT(A) has erred in law and on facts in deleting the penalty levied u.s.271(1)(c) of the Act on account of disallowance of MCX loss of Rs.83,61,333/- made by the AO.*
2. *That ld.CIT(A) has erred in law and on facts in deleting the penalty levied u/s.271(1)(c) of the Act on account of disallowance of interest income of Rs.11,13,041/-*

2. At the outset, we note that the penalty in the case on hand was imposed under section 271(1)(c) of the Act on account of the disallowances of MCX Loss and addition of interest income amounting to Rs. 83,61,333.00 and 11,13,041.00 respectively.

2.1 However, we find that the assessee against the confirmation of the quantum disallowance of MCX loss of Rs. 83,61,333.00 and addition of interest income of Rs. 11,13,041.00 by the learned CIT (A) preferred an appeal before the ITAT bearing ITA No. 1389/AHD/2014. The ITAT was pleased to restore the matter to the file of the learned CIT (A) for the fresh adjudication vide order dated 27-04-2018. The copy of the order of the ITAT is available on record.

2.2 On a query from the bench to the learned AR for the assessee to restore the issue to the file of the learned CIT-A for the fresh adjudication, he did not object. The learned DR also did not object if the matter is set aside to the learned CIT-A for fresh adjudication as per the provisions of law.

In view of the above facts, we are inclined to restore the impugned issue for fresh adjudication as per the provisions of law. Hence the ground of appeal of the Revenue is allowed for statistical purposes.

3. In the result, the appeal of the Revenue is allowed for statistical purposes.

Order pronounced in the Court on 19/06/2019 at Ahmedabad.

**-Sd-
(A.D. JAIN)
VICE PRESIDENT**

Ahmedabad; Dated
Manish

**-Sd-
(WASEEM AHMED)
ACCOUNTANT MEMBER**

**(True Copy)
19/06/2019**