

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'SMC' अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD

BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER &
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No. 2186/Ahd/2017
(निर्धारण वर्ष / Assessment Year : 2010-11)

Kiritkumar Himatlal Dholakia 801, Sukan Apartment, Bodakdev Road, Vastrapur, Ahmedabad	बनाम/ Vs.	ITO Ward – 5(1)(5), Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ABIPD2443B		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri K. C. Thaker, A.R.
प्रत्यर्थी की ओर से / Respondent by :	Shri Rajesh Meena, Sr.D.R.

सुनवाई की तारीख / Date of Hearing	30/07/2019
घोषणा की तारीख /Date of Pronouncement	31/07/2019

आदेश/ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Appeals)-5, Ahmedabad ('CIT(A)' in short), dated 14.07.2017 arising in the penalty order dated 09.03.2016 passed by the Assessing Officer (AO) under s. 271(1)(c) of the Income Tax Act, 1961 (the Act) concerning AY 2010-11.

2. As per the grounds of appeal, the assessee has impugned the imposition of penalty under s. 271(1)(c) of the Act amounting to Rs.8,45,000/-.

3. When the matter was called for hearing, the learned AR for the assessee submitted that the co-ordinate bench of Tribunal in ITA No. 252/Ahd/2016, order dated 14.02.2018 in quantum proceedings had set aside the substantive dispute to the file of the CIT(A).

4. In view of the fact that the quantum additions/disallowances itself has been set aside to the file of CIT(A), the very basis for imposition of penalty under s. 271(1)(c) does not survive at present. Therefore, the action of the CIT(A) towards sustaining penalty is also set aside and restored back to the file of CIT(A) for fresh adjudication in the light of quantum appeal and in accordance with law.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

This Order pronounced in Open Court on 31/07/2019

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER
Ahmedabad: Dated 31/07/2019

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अग्रहित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।