



ITA No.6411/Mum/2018
Zenith Engineering Corporation
Assessment Year :2008-09

आयकर अपीलीय अधिकरण “जी” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH, MUMBAI

माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य
एवं माननीय श्री रवीश सूद, न्यायिक सदस्य के समक्ष।
BEFORE HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON’BLE SHRI RAVISH SOOD, JM

आयकरअपील सं./ I.T.A. No.6411/Mum/2018
(निर्धारण वर्ष / Assessment Year: 2008-09)

M/s. Zenith Engineering Corporation Daman b-902 Gokul Apartment, New Saibaba Nagar, Borsapada, Kandivali West Mumbai -400 067.	बनाम/ Vs.	ACIT- Range-33(3) Room No.409/C-13 Pratayaksh Kar Bhavan Bandra Kurla Complex Mumbai- 400 051.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAAFZ-1582-E		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	S/Shri Nitesh Joshi & Vipul K. Mody-Ld. Ars
Revenue by	:	Shri N. Padmanabhan-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	08/01/2020
घोषणा की तारीख / Date of Pronouncement	:	08/01/2020

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as ‘AY’] 2008-09 contest the order of Ld. Commissioner of Income-Tax (Appeals)-45, Mumbai, [in short referred to as ‘CIT(A)’], *Appeal No.CIT(A)-45/ACIT-33(3)/ITA-49/2015-16* dated 21/06/2018 *qua* confirmation of penalty u/s 271(1)(C) for Rs.6,81,036/-. The impugned order is an *ex-parte* order.



2. It is admitted position before us that impugned penalty levied by Ld. AO vide penalty order dated 31/03/2015 spring from quantum assessment order framed by Ld. AO u/s 143(3) r.w.s. 147 on 14/11/2011. Upon appeal against quantum assessment, the assessment has been annulled by Tribunal vide ITA No.1272/M/2014 order dated 30/10/2017, a copy of which has been placed on record. In the above background, Ld. AR submitted since quantum order has been quashed by the Tribunal which is still in force and therefore, the penalty against the quantum order would not survive. The Ld. DR could not controvert the said position.

3. In view of admitted position, since quantum assessment has been quashed by the Tribunal, the penalty arising out of the same, would also not survive. By deleting the same, we allow the appeal.

Order pronounced in the open court on 08th January, 2020.

Sd/-

(Ravish Sood)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 08/01/2020

Sr.PS, Jaisy Varghese

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent



ITA No.6411/Mum/2018
Zenith Engineering Corporation
Assessment Year :2008-09

3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.