

आयकरअपीलीयअधिकरणसूरतन्यायपीठ,सूरत
IN THE INCOME TAX APPELLATE TRIBUNAL,
SURAT BENCH,SURAT

श्रीसी एमगर्ग, न्यायिक सदस्य एवंश्रीओपीमीना, लेखा सदस्य केसमक्ष
BEFORE SHRI C.M.GARG, JUDICIAL MEMBER AND
SHRI O.P.MEENA, ACCOUNTANT MEMBER

आयकरअपीलसं. / ITA Nos.103 & 104/Ahd./2017/SRT

निर्धारणवर्ष/ Assessment Year: 2002-03& 2003-04

M/s. Samarth India,
4408, Kohinoor Market,
Ring Road,
Surat – 395 002.
[PAN:AAPFS 9804D]
(अपीलार्थी/Appellant)

Vs. Income Tax Officer,
Ward-1(2)(4),
Surat.

(प्रत्यर्थी/Respondent)

आयकरअपीलसं. / ITA Nos.105 & 106/Ahd./2017/SRT

निर्धारणवर्ष/ Assessment Years: 2002-03& 2003-04

M/s. Shreyansh Corporation,
4409, Kohinoor Textile Market,
Ring road,
Surat.
[PAN: AAPFS 9806B]
(अपीलार्थी/Appellant)

Vs. Income Tax Officer,
Ward-1(2)(4),
Surat.

(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Assessee by

: Shri Vijay Mehta, C.A &
Mrs. SnehaPadhiar, C.A

प्रत्यर्थीकीओरसे /Respondent by

: ShriSrinivasT.Bidadri, CIT-DR &
Smt. IllaParmar, Sr. D.R

सुनवाईकीतारीख/Date of Hearing

: 16-02-2018

घोषणाकीतारीख /Date of Pronouncement

: 23-03-2018

आदेश /ORDER

PERC.M.GARG, JUDICIAL MEMBER:

Above captioned appeals have been filed against the Orders of the Id. Commissioner of Income Tax (Appeals)-2, Surat (for short 'CIT(A)') by which penalty imposed on both the assesseees u/s. 271(1)(c) of the Income Tax Act, 1961 (for short 'the Act') has been confirmed for Assessment Year (A.Y) 2002-03 and 2003-04.

2. Since by the separate order passed today, in the relevant quantum appeals i.e., ITA No.103/Ahd/2017 to 106/Ahd/2017 for A.Y 2002-03 & 2003-04 along with other 7 appeals (total 11 appeals) after condoning the delay in filing appeal before Tribunal, we have restored all the matters to the file of the Assessing Officer (AO) for a fresh adjudication after allowing due opportunity of hearing to the assessee therefore, the penalty imposed by the AO and confirmed by the Id. CIT(A) in all these four appeals does not survive as the additions are not in existence after restoration of case to the assessment stage to the file of A.O. Therefore, penalty imposed by the AO u/s. 271(1)(c) of the Act which has been upheld by the Id. CIT(A) in all these four appeals cannot be held as sustainable and we direct the AO to delete the same.

3. However, before we part with the order make it clear that in the event if in the reassessment order passed in pursuant to the Tribunal order the AO makes additions and as per facts and circumstances it is necessary and required to initiate penalty proceedings u/s. 271(1)(c) of the Act or any of the relevant provision then, the AO shall not be prevented in initiating the

penalty proceedings and he shall be empowered to pass appropriate order as per provisions of the Act.

4. In the result, all four appeals are allowed with the directions and liberty to the AO as mentioned herein above.

Order pronounced in the open court on this day of 23rd March, 2018.

Sd/-

(ओपीमीना)
(O.P.MEENA)

लेखासदस्य/Accountant Member

सूरत/Surat; दिनांक Dated : 23rd March, 2018

EDN

Sd/-

(सीएमगर्ग)
C.M.GARG

न्यायिकसदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकरआयुक्त(अपील) / The CIT(Appeals)-2, Surat;
4. Pr. CIT-1, Surat;
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, पुणे/ DR, ITAT, Surat;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER

सत्यापित प्रति//True Copy//

सहायकपन्जीकर / Assistant Registrar

आयकर अपीलीय अधिकरण, सूरत / ITAT, Surat