

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "G", MUMBAI**

BEFORE SHRI RAJESH KUMAR (AM) AND SHRI RAM LAL NEGI (JM)

**ITA No. 4785/MUM/2018
Assessment Year: 2004-05
&
ITA No. 4786/MUM/2018
Assessment Year: 2004-05**

GTL Limited, 412, Janmabhoomi Chambers, 29, Walchand Hirachand Marg, Ballard Estate, Mumbai - 400038 PAN: AAACG3742L	Vs.	The Assistant Commissioner of Income Tax, Central Circle - 9, Old CGO Building, Mumbai
(Appellant)		(Respondent)

Assessee by : Shri Anuj Kisnadwala (AR)

Revenue by : Shri T.S. Khalsa (DR)

Date of Hearing: 23/11/2020
Date of Pronouncement: 23/11/2020

ORDER

PER RAM LAL NEGI, JM

These appeals have been filed by the assessee against the two orders dated 13.09.2013 passed by the Commissioner of Income Tax (Appeals)-37 (for short 'the CIT(A), Mumbai, for the assessment year 2004-05. Vide first order the Ld. CIT(A) has dismissed the assessee's appeal filed against assessment order u/s 143 (3) r.w.s. 147 of the Income Tax Act, 1961 (for short the 'Act') and vide second order the Ld. CIT (A) has partly allowed the appeal filed by the assessee against penalty order passed u/s 271 (1) (c) of Act.

ITA No. 4785/MUM/2018 (Assessment Year: 2004-05)

The assessee has challenged the impugned order passed by the Ld. CIT (A) on the following effective grounds:-

Ground No. 1

1. *On the facts and circumstances of the case, the penalty has been initiated vide notice u/s 274 without any specific charge and hence the notice and the order passed u/s 271 (1) (c) is illegal, bad in law and without jurisdiction.*
2. *The Appellant humbly prays that the Assessing Officer be directed to delete the penalty levied u/s 271 (1) (c).*

Without prejudice to Ground No. 1**Ground No. II: Levy of penalty on alleged bogus purchases**

1. *On the facts and circumstances of the case and in law, the Ld. CIT (A) erred in upholding the action of the Ld. AO by levying penalty on additions made to income computed u/s 115JB of the Act on account of alleged bogus purchases.*
2. *The Appellant humbly prays that the Assessing Officer be directed to delete the penalty levied u/s 271 (1) (c).*

ITA No. 4786/MUM/2018 (Assessment Year: 2004-05)

The assessee has challenged the impugned order passed by the Ld. CIT (A) on the following effective grounds:-

Ground No. I: Reopening of assessment under section 148 is bad in law.

1. *On the facts and circumstances of the case and in law, the Hon'ble CIT (A) erred in upholding the action of the Ld. Assessing Officer ("Ld. AO) of reopening the assessment under section 147 of the Act beyond a period of 4 years.*
2. *The Appellant prays that the AO be directed that re-opening of assessment under section 147 of the Act is void-ab-initio and / or otherwise bad-in-law.*

Without prejudice to Ground No. I**Ground No. II Disallowance of depreciation on purported bogus purchases.**

1. *On the facts and circumstances of the case and in law, the Hon'ble CIT (A) erred in upholding the action of the Ld. O*

by treating purchase and capitalization of software as bogus in nature and denying depreciation on the same.

2. *The Appellant therefore prays that the AO be directed to treat the purchase of software as genuine in nature and allow depreciation on the same.*

At the outset, the Ld. counsel for the assessee submitted that the assessee wants to withdraw the said appeals in view of the fact that the assessee has filed compounding applications before the concerned authority and the same have been accepted.

The Ld. Departmental Representative did not oppose the submissions made by the Ld. counsel.

Hence, in view of the submissions made by the Ld. counsel for the assessee, we allow the request made on behalf of the assessee and dismiss the appeals as withdrawn.

In the result, appeals filed by the assessee are dismissed.

Order pronounced on 23rd November, 2020 under rule 34 (4) of the Income Tax Appellate Tribunal Rules, 1963.

Sd/-
(RAJESH KUMAR)

ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated: 23/11/2020

Sd/-
(RAM LAL NEGI)
JUDICIAL MEMBER

Alindra, PS

आदेश प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /

DR, ITAT, Mumbai

6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / **ITAT, Mumbai**