

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

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing Through Video Conferencing Mode)

आयकर अपील सं./ I.T.A. No.7686/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2004-05)

M/s Fargo Sales Pvt. Ltd. Shakti Niwas, 21 Ramchandra Lane Ext. Malad West, Mumbai-400 064	बनाम/ Vs.	ACIT – 9(1) Aayakar Bhavan, M. K. Road, Mumbai-400 020
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AAACF-1705-C		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Amit Khotari, Ld. AR
Revenue by	:	Ms. Usha Gaikwad, Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	05/08/2021
घोषणा की तारीख / Date of Pronouncement	:	05/08/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. In this appeal for Assessment Year (AY) 2004-05, the assessee is aggrieved by confirmation of certain penalty u/s 271(1)(c) for Rs.10.74 Lacs. The Ld. AR submitted that penalty was levied on quantum additions of Rs.29.95 Lacs. However, the additions to the extent of Rs.0.77 Lacs were deleted by Ld. CIT(A) whereas the balance addition of Rs.29.18 Lacs has been deleted by Tribunal vide ITA No.4707/Mum/2011 order dated 15/02/2017. A copy of the order has

been placed on record. In the said background, Ld. AR submitted that the penalty would not survive. This position remains uncontroverted before us.

2. The Ld. DR, on the other hand, submitted that the appeal was filed by assessee before Ld. CIT(A) under wrong PAN and none appeared for assessee during appellate proceedings.

3. Though we concur with the submissions of Ld. DR, however, since quantum additions have fully been deleted, the consequential penalty would not survive. We order so.

4. The appeal stands allowed.

Order pronounced on 05th August, 2021.

Sd/-

(Mahavir Singh)

उपाध्यक्ष / **Vice President**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 05/08/2021
Sr.PS, Dhananjay

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

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