

**यकर अपीलीय अधिकरण, मुंबई न्यायपीठ , मुंबई ।**

**IN THE INCOME TAX APPELLATE TRIBUNAL "J" BENCH, MUMBAI**

**BEFORE SHRI C.N. PRASAD, JUDICIAL MEMBER AND**

**SHRI N.K. PRADHAN, ACCOUNTANT MEMBER**

**आयकर अपील सं /I.TA No. 3881/Mum2015**

**(निर्धारण वर्ष / Assessment Year: 2011-11**

M/s. Jagkumar & Co. Pvt. Ltd., Prospect Chambers Annexe, 317/21, Ld. Departmental Representative. D.N. Road, Fort, Mumbai-400 001	<b>बनाम/ Vs.</b>	The ITO Ward-2(2), Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAACJ 1367N		
<b>(अपीलार्थी /Appellant)</b>	..	<b>(प्रत्यर्थी / Respondent)</b>
अपीलार्थी ओर से/ <b>Appellant by:</b>		Shri Ramesh B. Gandhi
प्रत्यर्थी की ओर से/ <b>Respondent by:</b>		Ms. R.M. Madhavi

**सुनवाई की तारीख / Date of Hearing :27.09.2016**

**घोषणा की तारीख /Date of Pronouncement : 27 .09.2016**

**आदेश / O R D E R**

**PER C.N. PRASAD, JM:**

This appeal is filed by the assessee against the order of the Ld. CIT(A)-5, Mumbai dated 09.03.2015 arising out of the penalty order passed u/s. 271(1)(c) of the Act pertaining to assessment year 1995-96.

2. At the time of hearing one Mr. Ramesh B. Gandhi, the Accountant of the assessee company appeared and filed a copy of the

order of the Co-ordinate Bench which disposed off the quantum appeal in ITA Nos. 6151 to 6153 & 6123/M/2011 dated 6.11.2015. He submits that in view of the order of the Co-ordinate Bench in quantum proceedings, the penalty appeal may also be decided accordingly.

3. The Ld. Departmental Representative submits that in quantum proceedings, the Tribunal remitted the matter to the file of the Assessing Officer to decide the issues as per the directions given by the Tribunal in order dated 28.4.2009.

4. Heard both parties and perused the orders of the authorities below. We have also perused the order of the Co-ordinate Bench in quantum proceedings and find that the Co-ordinate Bench restored the matter to the file of the Assessing Officer to decide the issues strictly as per the directions given in the order of the Tribunal dated 28.4.2009. In the circumstances, we set aside the penalty order and restore to the file of the Assessing Officer.

5. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 27<sup>th</sup> September, 2016.

Sd/-

Sd/-

**(N.K. PRADHAN)**

**(C.N. PRASAD )**

लेखा सदस्य / ACCOUNTANT MEMBER न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated 27<sup>th</sup> September, 2016

व.नि.स./ Rj , Sr. PS

**आदेश की 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