

आयकर अपीलीय अधिकरण," ऐ" खंडपीठ मुंबई
INCOME TAX APPELLATE TRIBUNAL,MUMBAI-A,BENCH

सर्वश्री जोगिन्दरसिंह, न्यायिक सदस्य एवं राजेन्द्र, लेखा सदस्य

Before S/Sh. Joginder Singh, Judicial Member & Rajendra, Accountant Member

आयकर अपील सं./ITA/7368/Mum/2013, निर्धारण वर्ष/Assessment Year :2009-10

Dy. CIT-2(22) Room No.545, Aayakar Bhavan Mumbai-400 020.	Vs	M/s. Knight Frank (India) Pvt. Ltd., Paville House, Near Twin Towers Off, Veer Savarkar Marg, Prabhadevi Mumbai-400 025. PAN:AAACK 1544 J
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(अपीलार्थी /Appellant)

(प्रत्यर्थी / Respondent)

निर्धारिती ओर से/Assessee by :Shri Amey Wagle

राजस्व की ओर से/ Revenue by :Shri Asghar Zain

सुनवाई की तारीख/ Date of Hearing : 01-12- 2015

घोषणा की तारीख / Date of Pronouncement : 01.01.2016

आयकर अधिनियम,1961 की धारा 254(1)के अन्तर्गत आदेश

Order u/s.254(1)of the Income-tax Act,1961(Act)

लेखा सदस्य राजेन्द्र के अनुसार PER RAJENDRA, AM-

Challenging the order dt.30.09.2013 of CIT(A)-5,Mumbai,the Assessing Officer(AO) has filed the present appeal.

2.Assessee-company,engaged in the business of property management and consultancy,filed its return of income on 14.11.2007,declaring income at Rs.9.32 Crores.The AO completed the assessment on 29.12.2009,u/s. 143(3) of the Act determining the income of the assessee at Rs.10.03 Crores.During the assessment proceedings,the AO made additions on account of service tax (as part of trading receipt)as per provisions of section 145A of Rs.69.20 lakhs and addition of Rs.1.20 lakhs u/s.41(1)of the Act. Aggrieved by the order of the AO, the assessee preferred an appeal before the First Appellate Authority(FAA),who confirmed the addition to the tune of Rs.22,00,808/-and Rs.1.20 lakhs under the heads service tax and u/s.41(1) respectively.Following the order of the FAA,the AO imposed penalty of Rs.6.96 lakhs in respect of the additions sustained by the him,u/s.271(1)(c) of the Act for furnishing inaccurate particulars of income.

3.During the appellate proceedings,before the FAA,it was argued that the Tribunal had,vide its order dated 10.07.2013,(ITA/2021/Mum/2011),deleted the additions on account of service tax and had set aside the issue of addition made u/s.41(1)of the Act to the file of the AO.After considering the submissions of the assessee,he deleted the penalty imposed by the AO.

4.Before us,the Departmental Representative(DR)stated the matter could be decided on merits.Authorised Representative(AR) referred to the order of the Tribunal dated 10.07.2013. We have heard the rival submissions and perused the material before us.We find that the Tribunal in its order at paragraph no.12 had deleted the addition made with regard to service tax.It had also sent back the matter of addition made u/s.41(1)of the Act to the AO.In these circumstances,we are of the opinion that penalty order would not survive.Therefore, confirming the order of the FAA,we decide the effective ground of appeal against the AO.

As a result, appeal filed by the AO stands dismissed.
फलतः निर्धारिती अधिकारी द्वारा दाखिल की गई अपील नामंजूर की जाती है.

Order pronounced in the open court on 1st January, 2016.
आदेश की घोषणा खुले न्यायालय में दिनांक 01 जनवरी, 2016 को की गई ।

Sd/-

(जोगिन्दरसिंह/ **Joginder Singh**)

न्यायिक सदस्य / **JUDICIAL MEMBER**

मुंबई/Mumbai, दिनांक/Date 01.01.2016

व.नि.स./*Jr.Sr.PS.*

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

1.Appellant /अपीलार्थी

2. Respondent /प्रत्यर्थी

3.The concerned CIT(A)/संबद्ध अपीलीय आयकर आयुक्त, 4.The concerned CIT /संबद्ध आयकर आयुक्त

5.DR “ ” Bench, ITAT, Mumbai /विभागीय प्रतिनिधि, ए खंडपीठ, आ.अ.न्याया.मुंबई

6.Guard File/गार्ड फाईल

सत्यापित प्रति //True Copy//

आदेशानुसार/ **BY ORDER,**

उप/सहायक पंजीकार **Dy./Asst. Registrar**

आयकर अपीलीय अधिकरण, मुंबई /ITAT, Mumbai.