

**आयकर अपीलीय अधिकरण, मुंबई "ई" खंडपीठ मे**  
**Income-tax Appellate Tribunal -"E" Bench Mumbai**

सर्वश्री राजेन्द्र,लेखा सदस्य एवं अमरजीत सिंह, न्यायिक सदस्य

**Before S/Sh.Rajendra,Accountant Member and Amarjit Singh,Judicial Member**

**आयकर अपील सं./I.T.A./5186-88/Mum/2014 ,निर्धारण वर्ष /Assessment Year: 2008-09 to 2010-11)**

M/s. Sharepro Services (India) Pvt.Ltd. 912, Raheja Centre, Free Press Journal Road, Nariman Point,Mumbai-400 021. <b>PAN:AAICS 5500 L</b>	Vs.	DCIT-(TDS)-3(2) Mumbai.
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(अपीलार्थी /Appellant)

(प्रत्यर्थी / Respondent)

राजस्व की ओर से / **Revenue by:** Shri A.K. Nayak

अपीलार्थी की ओर से /**Assessee by:** Shri Kirit J. Sheth

सुनवाई की तारीख / **Date of Hearing:** 20/03/2017

घोषणा की तारीख / **Date of Pronouncement:** 22.03.2017

**लेखा सदस्य राजेन्द्र के अनुसार PER RAJENDRA, AM-**

Challenging the orders dated 06/06/2014 of the CIT (A)-14,Mumbai the assessee has filed appeals for the above-mentioned three AY.s. As the issue involved in all the appeals is common, so, we are disposing off by a single common order, for the sake of convenience. Effective ground of appeal for all the AY.s is levy of penalty u/s.272A(2)(k) of the Act.

2.On examination of records, the Assessing Officer (AO) noted that the assessee had not filed the quarterly TDS statement in Form Number 26Q within the time specified u/s.206/206C of the Act read with Rule 37 of the Income Tax Rules, 1962 for the above-mentioned three AY.s. As per the AO,the returns were to be filed at the end of the every quarter as per the provisions of section 200(3) read with Rule 31A of the Rules. He issued a show cause notice to the assessee asking it to explain as to why penalty u/s.272A(2)(k) should not be levied. As per the AO, in response to the notice the assessee filed a letter enclosing copies of TDS returns. The AO observed that there existed a statutory obligation to file quarterly returns, that the assessee had failed to comply with the provisions of the act, that there was delay in filing the returns. He, therefore, imposed penalty of Rs.63,344/-,46,608/-and Rs.25,500/-for the AY.s 2008-09,2009-10 and 2010-11 respectively.

3.Aggrieved by the order of the AO, the assessee preferred an appeal before the First Appellate Authority (FAA).Before her,written submissions were filed stating that child of the director was mentally retarded and the director could not able to attend office work to the extent it was required to, that the business of company had also suffered for that reason. After considering the submission of the assessee,the FAA held that liability of the assessee was

absolute, that nobody could avoid the responsibility of deposit of tax so directed and file return on time. She referred to the provisions of section 199, 194,200(3) and 272 of the Act and held that assessee had to manage its affairs in such a manner that statutory compliances were complied with as provided in the Act, that there was no reasonable cause for delay in filing the TDS returns. Finally, she upheld the penalty levied by the AO.

4. During the course of hearing because us, the Authorised Representative (AR) contended that there was reasonable cause for filing the TDS returns late, that the son of the director was a special child, that the assessee could not devote sufficient time towards the business, that the business had virtually closed. The Departmental Representative (DR) supported the order of the FAA.

5. We find that the AO had levied the penalty for late filing of TDS returns, that there was delay of 402 and 295 days in filing the second and fourth quarterly returns for the AY.2008-09, that the delay in filing the second, third and fourth quarterly returns was to 97, 187 and 36 days respectively for the AY.2009-10, that there was delay of 84 days, 161 days, 10 days in filing the returns for second, third and fourth quarterly returns for the next AY. Thus, out of the twelve returns the assessee had filed four returns in time. It also shows that the assessee was aware of the provisions of the Act. The only issue to be decided is that the reasons given by the assessee for not filing the returns in time was reasonable or not. Being a corporate entity it is duty of the assessee to comply with the legal requirements. If the director of the assessee-company was pre-occupied with his child, it has to be more careful about the limitations of the director. It should have taken care of the fact that director may not be available regularly. By hiring professional services, the assessee could have easily handled the situation. What was to be done was filing of a return only. It is not a job that requires higher technical qualification or personal attention of the director. In short, the assessee has not shown a reasonable cause for filing TDS returns belatedly. In our opinion, the order of the FAA does not suffer from any legal infirmity. So, confirming the same, we decide the effective ground against the assessee.

As a result, appeals filed by the assessee for above mentioned three AY.s stand dismissed.

फलतः निर्धारिती द्वारा उक्त तीनों निर्धारण वर्षों के लिए दाखिल की गई अपीलें नामजूर की जाती हैं.

Order pronounced in the open court on 22<sup>nd</sup> March , 2017.

आदेश की घोषणा खुले न्यायालय में दिनांक 22 मार्च ,2017 को की गई ।

Sd/-

Sd/-

(अमरजीत सिंह / Amarjit Singh )

(राजेन्द्र / Rajendra)

न्यायिक सदस्य / JUDICIAL MEMBER

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक/Dated : 22.03.2017.

Jv.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, 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.**