

आयकर अपीलिय अधिकरण, मुंबई न्यायपीठ , मुंबई ।

IN THE INCOME TAX APPELLATE TRIBUNAL "E" BENCH, MUMBAI

BEFORE SHRI RAJENDRA, ACCOUNTANT MEMBER AND

SHRI C.N. PRASAD, JUDICIAL MEMBER

आयकर अपील सं /I.TA No. 4399/Mum/2015

(निर्धारण वर्ष / Assessment Year: 1998-99

M/s. Dilsa Distributors Combines, 1 st Floor, Naaz Bldg., Lamington Road, Mumbai-400 04	बनाम/ Vs.	The ITO, Ward 16(1)(2), Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAAFD 3288K		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
अपीलार्थी ओर से/ Appellant by:		None
प्रत्यर्थी की ओर से/ Respondent by:		Shri Sanjeev Kashyap

सुनवाई की तारीख / Date of Hearing :28.07.2016

घोषणा की तारीख /Date of Pronouncement :05.08.2016

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)-4, Mumbai dated 27.03.2015 pertaining to assessment year 1998-99.

2. The assessee has raised following grounds of appeal:

- 1) On levying of penalty u/s. 271(1)(c) of the I.T. Act, 1961.

- i) *“On the facts and circumstances, the Ld. CIT(A) has erred in not dropping/deleting the penalty levied u/s. 271(1)(c) of the I.T. Act, 1961 for Rs. 17,32,500/- by the Ld. Assessing Officer.*
- ii) *The Learned Assessing Officer had totally ignored the relevant details, documents/ confirmations & necessary explanations.”*

3. At the outset, the Ld. Counsel for the assessee submits that the quantum appeal has been set aside by the Tribunal by order dated 20.4.2016 in ITA No. 7007 of 2011. Therefore, he submits that penalty order passed u/s. 271(1)(c) for concealment of income in respect of the addition made in the quantum will not survive. Copy of the order of the Tribunal is placed before us.

4. The Ld. Departmental Representative submits that the penalty proceedings also may be restored to the file of the Assessing Officer and to pass necessary orders after passing consequential assessment order by the Assessing Officer in the quantum proceedings.

5. On hearing both the parties and perusing the order of the Tribunal we find that the addition made in the assessment order for this Assessment Year i.e. 1998-99 has been set aside for verification and passing orders by following the earlier order of the Tribunal for the Assessment Year 1997-98. Since the addition is set aside to the file of the Assessing Officer, we set aside the penalty proceedings also to the file of the Assessing Officer who shall complete the penalty

proceedings after passing the consequential order giving effect to the quantum appeal order.

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

Order pronounced in the open court on 5th August, 2016.

Sd/-

(RAJENDRA)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated 5th August, 2016

व.नि.स./ Rj , Sr. PS

Sd/-

(C.N. PRASAD)

न्यायिक सदस्य/JUDICIAL MEMBER

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