

आयकर अपीलिय अधिकरण "ए" न्यायपीठ मुंबई में।

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

श्री अमित शुक्ला, न्यायिक सदस्य एवं

श्री राजेश कुमार, लेखा सदस्य के समक्ष ।

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

ITA No. : 3369/Mum/2013

(Assessment year: 2002-03)

ITA No. : 3370/Mum/2013

(Assessment year: 2003-04)

ITA No. : 3371/Mum/2013

(Assessment year: 2004-05)

ITA No. : 3372/Mum/2013

(Assessment year: 2005-06)

ITA No. : 3373/Mum/2013

(Assessment year: 2006-07)

ITA No. : 3374/Mum/2013

(Assessment year: 2007-08)

St. Angelo's Computers Ltd, 159, CST Road, Kalina, 6 th Floor, Jyoti Plaza, Above Tata Motors, S V Road, Kandivali (West), Mumbai -400 067 स्थयी लेखा सं.:PAN: AAECS 9697 J	Vs	ACIT-9 (3), Aayakar Bhavan, M K Road, Mumbai
अपीलार्थी (Appellant)		प्रत्यर्थी (Respondent)
Appellant by	:	श्री निशित गांधी Shri Nishit Gandhi
Respondent by	:	श्री डार्सी सुमन रत्नम Shri Darsi Suman Ratnam

सुनवाई की तारीख /Date of Hearing : 24-02-2016

घोषणा की तारीख /Date of Pronouncement : 24-02-2016

आदेश
ORDER

PER BENCH:

The aforesaid appeals have been filed by the assessee against a consolidated order dated 21.02.2013 passed by CIT(A)-20 in relation to the penalty proceedings under section 271(1)(c) for the assessment years 2002-03, 2003-04, 2004-05, 2005-06,

2006-07 and 2007-08. In all these appeals, the penalty has been levied on account of disallowance of depreciation on "goodwill".

2. At the outset, Ld. Counsel for the assessee, Shri Nishit Gandhi, submitted that, in the quantum appeal, the Tribunal vide order dated 22.07.2015 has allowed the assessee's claim for depreciation on "goodwill" following the decision of Hon'ble Supreme Court in the case CIT vs Smifs Securities Ltd., reported in 348 ITR 302. Once the addition itself has been deleted in the quantum proceedings then, penalty under section 271(1)(c) has no legs to stand and accordingly, penalty levied by the AO and as confirmed by the CIT(A) in all the years stands deleted.

3. In the result, appeal of the assessee for all the years are allowed.

Order pronounced in the open court on 24th February, 2016.

Sd/-
(राजेश कुमार)
लेखा सदस्य

(RAJESH KUMAR)
ACCOUNTANT MEMBER

Sd/-
(अमित शुक्ला)
न्याईक सदस्य

(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai, Date: 24th February, 2016

प्रति/Copy to:-

- 1) अपीलार्थी /The Appellant.
- 2) प्रत्यर्थी /The Respondent.
- 3) The CIT(A) -20, Mumbai.
- 4) The Commissioner of Income Tax- 9, Mumbai.
- 5) विभागीय प्रतिनिधि "ए" , आयकर अपीलीय अधिकरण, मुंबई/
The D.R. "A" Bench, Mumbai.
- 6) गार्ड फाईल \
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आदेशानुसार/By Order

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उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, मुंबई
Dy./Asstt. Registrar
I.T.A.T., Mumbai