

आयकर अपीलीय अधिकरण, मुंबई “ जी” खंडपीठ
Income-tax Appellate Tribunal -“G”Bench Mumbai
सर्वश्री राजेन्द्र,लेखा सदस्य एवं, राम लाल नेगी, न्यायिक सदस्य
Before S/Shri Rajendra,Accountant Member and Ram Lal Negi,Judicial Member
आयकर अपील सं./I. T.A./4093/Mum/2015, निर्धारण वर्ष /Assessment Year: 2008-09

M/s. Standard Industries Limited 59, The Arcade 1 st Floor, World Trade Centre, Cuffe Parade, Colaba,Mumbai-400 005. PAN:AABCS 8888 C	Vs.	Dy. CIT, Circle -3 (3) Aayakar Bhavan, M.K. Road Mumbai-400 020.
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(अपीलार्थी /Appellant)

(प्रत्यर्थी / Respondent)

Revenue by: Shri R.K. Sahu-DR

Assessee by: Shri J.P. Desai

सुनवाई की तारीख / **Date of Hearing: 01.06.2017**

घोषणा की तारीख / **Date of Pronouncement: 01.06.2017**

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.29.3.2014 the assessee has filed the present appeal. Assessee – company ,engaged in the business of manufacturing and sale of textile goods, readymade garments, chemicals ,filed its return of income on 29/9/2008, declaring Nil income under the normal provisions.The AO completed the assessment u/s. 143(3) on 14/05/2010 determining its income at Rs.Nil under the normal provisions and book profit (-) Rs.63.74 crores u/s. 115JB of the Act.

2.Effective Ground of appeal is about levy of penalty u/s. 271(1)(c) of the Act towards adjustment of written down value of motor vehicles, aggregating to Rs.1.44 crores, against the profit on sale of plant and machinery while computing Short Term Capital Gain (STCG) on sale of depreciable assets u/s.50(1) of the Act. While completing the assessment, the AO observed that STCG on sale of depreciable asset was not shown correctly . He computed the STCG at Rs.14.93 crores against Rs.13.48 crores offered for tax in the return of income.Vide his order dt.28.3.2013, the AO levied penalty of Rs.44.71 crores u/s.271(1)(c) of the Act after issuing a notice to the assessee alleging that it had filed inaccurate particulars of income.

3.During the appellate proceedings,the First Appellate Authority (FAA) upheld the penalty order of the AO. During the course of hearing before us the Authorised Representative (AR) stated that the Tribunal had deleted the addition in the quantum appeal vide its order dt.28/4/2017 (ITA/3623/Mum/2012). We find that the Tribunal while allowing the quantum appeal held that the issue raised by the assessee was covered by the judgment of Hon'ble Delhi High

Court in the case of Ansal Properties & Infrastructure Ltd.(20taxmann.com770). As the quantum addition has been deleted by the Tribunal, so, the penalty order would not survive. Effective Ground of appeal is decided in favour of the assessee.

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

Order pronounced in the open court on 1st, June, 2017.

आदेश की घोषणा खुले न्यायालय में दिनांक 1 जून, 2017 को की गई।

Sd/-

Sd/-

(राम लाल नेगी / Ram Lal Negi)

(राजेन्द्र / Rajendra)

न्यायिक सदस्य / JUDICIAL MEMBER

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक/Dated : 01.06 .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 "G " 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.