

आयकर अपीलीय अधिकरण, मुंबई “ एफ ” खंडपीठ

Income-tax Appellate Tribunal -“F”Bench Mumbai

सर्वश्री राजेन्द्र,लेखा सदस्य एवं, शक्तिजीत डे, न्यायिक सदस्य

Before S/Shri Rajendra,Accountant Member and Saktijit Dey,Judicial Member

आयकर अपील सं/ ITA No. 1550/Mum/2015: निर्धारण वर्ष/Assessment Year:2009-10

M/s. Five Network Solution (I) Ltd. 22/2, Plot No.275-B, Near Guru Nanak School, Sion (W) Mumbai-400 022. PAN:AAACF 8062 A	Vs.	DCIT-Circle-6(2) Aayakar Bhavan Churchgate , Mumbai.
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Revenue by: Shri B.S. Bist

Assessee by: None

सुनवाई की तारीख / **Date of Hearing:** 05/06/2017

घोषणा की तारीख / **Date of Pronouncement:** 05/06/2017

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 A.M.-

Challenging the order,dated 30/01/2015,of the CIT(A)-12,Mumbai,the assessee has filed the present appeal.Assessee-company filed its return of income on 05/09/2009,declaring total income of Rs.51.08 lakhs.The Assessing Officer (AO) completed the assessment on 30/11/2011,determining its income at Rs. 2.21 crores. None appeared before us and no application was filed for adjourning the case.It is found that on earlier three occasions,the assessee had sought adjournments. So,we are deciding the matter on the basis of available material.

2.Effective Ground of appeal is about levy of penalty u/s.271(1)(c) of the Act.During the assessment proceedings,the AO directed the assessee to submit the details for claim of deduction u/s. 80IA. He further found income of the extent of Rs.2.21 lakhs was wrongly included in the claim made by the assessee.He disallowed claim holding that same was not eligible for the deduction. Besides,he initiated penalty proceedings u/s.271(1)(c)for furnish - ing inaccurate particulars of income.Vide his order dated 11/02/2014,the AO levied a penalty of Rs. 68,490/-.

3.Aggrieved by the order of the AO, the assessee preferred an appeal before the First Appellate Authority (FAA) and made elaborate submissions. After considering the available material, he held that it is not case of bona fide claim on part of the assessee,that the assessee had made a patently wrong,spurious and mendacious claim, that the levy of penalty could not

be considered improper,that the Department was scrutinising only 2% of the total returns filed,that had the case not been selected for scrutiny apparent concealment of income liable to tax could not have been detected,that penalty for tax delinquency was a civil wrong,that it was meant for safeguarding the loss of revenue he referred to certain case laws.Finally,he upheld the order of the AO.

4.As stated earlier, none appeared on behalf of the assessee.The Departmental Representative (DR) supported the order of the AO and the FAA.

We find that assessee had made a claim u/s.80IA of the Act,that it could not substantiate the claim, that the AO levied penalty for furnishing inaccurate particulars,that the FAA held that claim made by the assessee was prima facie inadmissible.Nothing has been brought on record to prove that the order of the FAA is suffering from any legal or factual infirmity. Therefore, upholding the same,we decide the effective ground of appeal against the assessee.

As a result, appeal filed by the assessee stands dismissed.

फलतः निर्धारिती द्वारा दाखिल की गई अपील नामंजूर की जाती है.

Order pronounced in the open court on 5th June, 2017.

आदेश की घोषणा खुले न्यायालय में दिनांक 05 जून, 2017 को की गई।

Sd/-

(शक्तिजीत डे / Saktijit Dey)

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई Mumbai; दिनांक/Dated : .05.06.2017.

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

6.Guard File/गार्ड फाईल

सत्यापित प्रति //True Copy//

Sd/-

(राजेन्द्र / Rajendra)

लेखा सदस्य / ACCOUNTANT MEMBER

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार Dy./Asst. Registrar

आयकर अपीलीय अधिकरण, मुंबई /ITAT, Mumbai.