

**आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ “एफ” मुंबई**  
**IN THE INCOME TAX APPELLATE TRIBUNAL “F” BENCH, MUMBAI**  
**BEFORE S/SHRI B.R. BASKARAN, AM AND AMARJIT SINGH, JM**

आयकर अपील सं./I.T.A. Nos.711 to 715/Mum/2011  
(निर्धारण वर्ष / Assessment Years: 2004-05 to 2008-09)

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| Shri Uday C Tamhankar,<br>C/8 Nand Dham Society,<br>L T Road,<br>Borivali (W),<br>Mumbai-400092 | <b>बनाम/<br/>Vs.</b> | Dy.Commissioner of Income Tax<br>(OSD)-II, Central Circle-7,<br>4 <sup>th</sup> floor, Ayakar Bhavan,<br>M.K.Road,<br>Mumbai-400020 |
| (अपीलार्थी /Appellant)  | ..                   | (प्रत्यर्थी / Respondent)   |

आयकर अपील सं./I.T.A. Nos.857 to 862/Mum/2011  
(निर्धारण वर्ष / Assessment Year: 2002-03 to 2007-08)

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| Dy.Commissioner of Income<br>Tax (OSD)-II, Central Circle-7,<br>Ayakar Bhavan,<br>M.K.Road,<br>Mumbai-400020 | <b>बनाम/<br/>Vs.</b> | Shri Uday C Tamhankar, C/8 Nand<br>Dham Society,<br>L T Road,<br>Borivali (W),<br>Mumbai-400092 |
| (अपीलार्थी /Appellant)   | ..                   | (प्रत्यर्थी / Respondent)   |

आयकर अपील सं./I.T.A. Nos.3579 to 3582/Mum/2013  
(निर्धारण वर्ष / Assessment Years: 2005-06 to 2008-09)

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| Shri Uday C Tamhankar, C/8<br>Nand Dham Society,<br>L T Road,<br>Borivali (W),<br>Mumbai-400092 | <b>बनाम/<br/>Vs.</b> | Dy.Commissioner of Income Tax<br>(OSD)-II, Central Circle-7,<br>4 <sup>th</sup> floor, Ayakar Bhavan,<br>M.K.Road,<br>Mumbai-400020 |
| (अपीलार्थी /Appellant)  | ..                   | (प्रत्यर्थी / Respondent)   |

आयकर अपील सं./I.T.A. No.3583/Mum/2013  
(निर्धारण वर्ष / Assessment Year: 2008-09)

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| Shri Uday C Tamhankar, C/8<br>Nand Dham Society,<br>L T Road,<br>Borivali (W),<br>Mumbai-400092 | <b>बनाम/<br/>Vs.</b> | Dy.Commissioner of Income Tax<br>(OSD)-II, Central Circle-7,<br>4 <sup>th</sup> floor, Ayakar Bhavan,<br>M.K.Road,<br>Mumbai-400020 |
| (अपीलार्थी /Appellant)  | ..                   | (प्रत्यर्थी / Respondent)   |

स्थायी लेखा सं./जीआइआर सं./PAN. :AABPT1667K

|                                |                     |
|--------------------------------|---------------------|
| अपीलार्थी ओर से / Assessee by  | Shri Hariom Tulsyan |
| प्रत्यर्थी की ओर से/Revenue by | Shri G M Das        |

सुनवाई की तारीख / Date of Hearing : 26.8.2015

घोषणा की तारीख /Date of Pronouncement: 11.9.2015

**आदेश / O R D E R****Per Bench:**

All these appeals and cross-appeals filed by the assessee and Revenue for the assessment years mentioned in the cause title are directed against the orders passed by Ld CIT(A)-40, Mumbai in quantum proceedings as well as in penalty proceedings.

2. The assessee has filed appeals numbered as ITA 711 to 715 against the orders passed by Ld CIT(A) in the quantum proceedings for the assessment years 2004-05 to 2008-09. The revenue has filed appeals numbered as ITA 857 to 862 for assessment years 2002-03 to 2007-08 against the orders passed by Ld CIT(A) in the quantum proceedings. The remaining appeals have been filed by the assessee against the orders passed by Ld CIT(A) against the penalty orders passed by the AO u/s 271(1)(c) for assessment years 2005-06 to 2008-09 and u/s 271AAA for the assessment year 2008-09. Since all these appeals arise out of common set of facts, they were heard together and are being disposed of by this common order, for the sake of convenience.

3. The facts relating to the case are set out in brief. The assessee is a dentist and carries on his profession from different places and also through different hospital names. He was subjected to search and seizure operations on 17-01-2008. On the very same day, some of his concerns were also surveyed u/s 133A of the Act. During the course of search operations, cash balance of Rs.1,13,57,110/- was found as against the book balance of Rs.9,10,548/-. In the statement recorded from him u/s 132(4) of the Act, he admitted the excess cash balance of Rs.1,04,68,512/- as his unaccounted income. The assessee agreed to offer a sum of Rs.1,25,00,000/- (including excess cash balance) as his income for the years stated below:-

| Assessment year | Amount      |
|-----------------|-------------|
| 2005-06         | 5,00,000    |
| 2006-07         | 5,00,000    |
| 2007-08         | 10,00,000   |
| 2008-09         | 1,05,00,000 |

Accordingly, the assessee filed returns of income for the above said years offering additional income as stated above.

4. The assessing officer, however, completed the assessments by making following types of additions:-

- (a) disallowances out of expenses claimed by the assessee.
- (b) additions u/s 69C of the Act in respect of certain expenses and assets found.
- (c) estimation of professional income and addition of difference amount.

5. The Ld CIT(A) confirmed the additions relating to disallowance of expenses and also the additions made u/s 69C of the Act. He, however, deleted the additions relating to estimated professional income. Hence

both the parties have filed these appeals challenging the orders of Ld CIT(A) on the points decided against each of them.

6. We shall first take up the appeals filed by the assessee. In all these years, the assessee is contesting the disallowances made out of expenses claimed by the assessee.

7. The first item relates to the disallowance made out of expenses as detailed below:-

| Assessment year | Car expenses | Telephone |
|-----------------|--------------|-----------|
| 2004-05         | 20,000       | 17,662    |
| 2005-06         | 52,346       | 20,000    |
| 2006-07         | 40,010       | 10,000    |
| 2007-08         | 46,527       | 10,000    |
| 2008-09         | 25,010       | 10,000    |

The disallowances made by the AO was also confirmed by Ld CIT(A). The Ld A.R submitted that the car expenses disallowed by the assessing officer include proportionate amount of depreciation and interest on car loan. The L.R submitted that both the items are statutory deductions prescribed under the Act and hence the disallowance of the same was not justified. In this regard, he placed reliance on the decision rendered by the co-ordinate bench of Mumbai Tribunal in the case of Mukesh K Shah (2005)(92 ITD 349). The Ld A.R further submitted that the assessee has offered additional income of about Rs.20.00 lakhs in order to cover up any other deficiencies. He submitted that the assessee has not capitalized the above said disclosure in his books of account. Accordingly he submitted that all the disallowances are to be telescoped against the additional disclosures.

8. The Ld A.R further submitted that the assessments of the assessment years up to AY 2006-07 were not pending as on the date of initiation of search and hence the AO was not justified in making the additions in those years without there being any incriminating materials. In this regard, he

placed reliance on the decision rendered by the special bench of Tribunal in the case of All Cargo Global logistics Ltd (137 ITD 287) which has **since been upheld by the Hon'ble jurisdictional Bombay High Court.**

9. The Ld D.R, on the contrary, submitted that the assessee has admitted additional income for various years in the statement recorded from him u/s 132(4) of the Act. Accordingly he submitted that there were incriminating materials available with the AO and hence the impugned additions were made by him.

10. We heard the parties on this issue and perused the record. Admittedly, these are estimated disallowances made out of expenses that were already claimed in the original return of income filed by the assessee. The assessee has submitted that the assessment years up to 2006-07 fall in the category of concluded assessments, i.e., assessments of those years were not pending on the date of initiation of search. Hence, in our view, the assessing officer could not have made these additions for AY 2004-05 to 2006-07 in the absence of any incriminating materials. Alternative contentions of the assessee also merits acceptance, i.e., the assessee has made additional disclosure of about 20.00 lakhs, which is more than enough to cover the above said disallowances. We accept the alternative contentions of the assessee and hence the additions made by the AO, after accepting the additional disclosure of Rs.20.00 lakhs, would result in double assessment, since it is stated that the assessee has not capitalised the above said amount in his books of account. Accordingly, we set aside the orders of Ld CIT(A) in respect of the above said issues in all the years cited above and direct the AO to delete the disallowances, referred above.

11. The next item of addition relates to the additions made u/s 69C of the Act in various years as tabulated below:

| A.Y     | Addition u/s 69C                                       |  |             |
|---------|--|--|-------------|
| 2004-05 | Talwalkar  | Rs.24,030  | Rs.24,030   |
| 2005-06 | i) Refrigerator<br>ii) Jewellery                       | Rs.14,070<br>Rs.5,718                            | Rs.19,788*  |
| 2006-07 | i) Talwalkar<br>ii) Jewellery                          | Rs.43,000<br>Rs.20,059                           | Rs.63,059   |
| 2007-08 | i) Talwalkar<br>ii) Mobile<br>iii) TV<br>iv) Jewellery | Rs.35,000<br>Rs.16,000<br>Rs.71,000<br>Rs.26,380 | Rs.1,48,380 |
| 2008-09 | i) Talwalkar<br>ii) Jewellery                          | Rs.25,000<br>Rs.1,69,187                         | Rs.1,94,187 |
|         | <b>Total</b>   |  | Rs.4,49,444 |

(Addition made is Rs.22,808/-)

12. We heard the parties on this issue and perused the record. The main contention of the Ld A.R is that the assessee and his wife have drawn sufficient money for personal purposes and they are sufficient to cover up the expenses cited above. Alternatively, the Ld A.R also submitted that the additional disclosure of Rs.20.00 lakhs is sufficient to cover these expenses. On the contrary, the Ld D.R placed strong reliance on the orders passed by Ld CIT(A).

13. We have already noticed that the assessee has offered additional income of about Rs.20.00 lakhs over and above the excess cash balance found during the course of search. It is also an admitted fact that the revenue did not seize any other incriminating material which compelled the assessee to make this disclosure. Hence the additional income of about Rs.20.00 lakhs was a voluntary offer. We notice that the disallowances of expenses as well as the addition made u/s 69C of the Act formed a small part of the above said amount of Rs.20.00 lakhs, thus leaving huge

balance remaining to be adjusted. Hence, we are of the view that, even if it is assumed that the additions made u/s 69C is required to be sustained, the same should be telescoped against the above said amount of Rs.20.00 lakhs. This is for the reason that the addition towards source and also investments made out of said source cannot be made and if made, the same would result in double assessment of same item of income. Further, since it is stated that the assessee has not capitalized the above said amount of Rs.20.00 lakhs, in our view, the telescoping benefit should be given. Hence the net result would be that there is no necessity to make any addition u/s 69C of the Act. Even otherwise, we notice that the assessing officer has made the additions u/s 69C of the Act without examining the claim of availability of sources out of drawings made by the assessee and his wife. Accordingly, we set aside the order of Ld CIT(A) on this issue in all the assessment years referred above and direct the AO to delete the impugned additions.

14. We shall now take up the appeals filed by the revenue. As stated earlier, the assessing officer proceeded to estimate the professional income of the assessee for assessment years 2002-03 to 2007-08. The reasoning given by the AO is explained in brief. The excess cash found at the time of search was declared by the assessee as his income for the AY 2008-09. Accordingly, the assessee included the same in the professional receipts. Accordingly the professional receipts for AY 2008-09 was shown at Rs.328.70 lakhs. The AO took the total number of working days for that year as 300 and accordingly worked out the average collection per day as Rs.1,09,000/-. Then the AO presumed that the assessee would have earned professional collections in the same pattern in the earlier years also. Accordingly, he estimated the average daily collection at Rs.1,00,000/-, Rs.90,000/-, Rs.80,000/-, Rs.70,000/-, Rs.60,000/- and

Rs.50,000/- respectively for assessment years 2007-08, 2006-07, 2005-06, 2004-05, 2003-04 and 2002-03. Accordingly the assessing officer worked out the gross receipts. Then the AO worked out the difference between the gross receipts declared by the assessee and that was worked out by him. Thereafter he applied the net profit rate declared by the assessee on the difference and accordingly worked out the additions. The said workings are tabulated below by the AO as under:-

| S.No. | A.Y./Receipt per day           | Gross receipts as per estimation | Gross receipts as per return | Difference | Net profit% as per IT return | Proposed additions on difference per net profit % |
|-------|--------------------------------|----------------------------------|------------------------------|------------|------------------------------|---|
| 1     | 2007-08<br>Rs.1,00,000 per day | 300.00                           | 165.41                       | 134.59     | 29.00%                       | 39.03   |
| 2     | 2006-07<br>Rs.90,000 per day   | 270.00                           | 167.71                       | 102.29     | 34.17%                       | 34.95   |
| 3     | 2005-06<br>Rs.80,000 per day   | 240.00                           | 147.99                       | 92.01      | 29.24%                       | 26.90   |
| 4     | 2004-05<br>Rs.70,000 per day   | 210.00                           | 131.59                       | 78.41      | 31.57%                       | 24.77   |
| 5     | 2003-04<br>Rs.60,000 per day   | 180.00                           | 108.40                       | 71.60      | 39.12%                       | 28.00   |
| 6     | 2002-03<br>Rs.50,000 per day   | 150.00                           | 103.12                       | 46.88      | 37.00%                       | 17.34   |

The assessing officer made the additions in the respective years as per the workings given above. The Ld CIT(A) deleted the additions in all the years mainly on the reasoning that there is no material to support the inference drawn by the assessing officer. Hence the revenue has filed these appeals before us.



15. We heard the parties on this issue and perused the record. For the sake of convenience, we extract below the observations made by the Id. CIT(A) in paragraph 6.5.4 and 6.5.5 of the order passed for AY 2004-05:-

**"6.5.4** In my considered opinion, whether estimate can be made in search assessment or not depends on the facts of the case and how a subject matter of estimate is linked to any paper seized. **I found that there is no material in the possession of the AO on the basis of which the AO has worked out extra receipts and extra profits.** Whatever books of account and loose sheets were found during the course of search are in the possession of the department, the only addition that could be sustained was in respect of unexplained cash found during the course of search at Rs.1,13,57,110/-(sic). The appellant has already offered Rs.1,25,00,000/- for tax as additional income. As per provision of section 69A, the cash found and not recorded in books of accounts for which no reasonable explanation is available is to be deemed to be the income of the financial year. **This cash cannot be taken as a piece of evidence for estimation of income of the earlier year, in the absence of any documentary evidence.** The AO has not given any findings in the assessment order that the receipts recorded on the loose papers found during the course of search were not recorded in the books of account. The finding is about certain expenses which were recorded on the loose papers and were not found to be recorded in the books of accounts.

6.5.5 On the basis of the facts narrated above, it is apparent that the Id. AO does not have, in his possession, any material evidence to suggest that cash income of similar nature was earned during the years prior to the year of search, and in any given proportion. Under the circumstances, the presumption has always to be made that the unaccounted income relates to the assessment year pertaining to the **date of search. The appellant's** explanation has to be believed unless a finding to the contrary can be deduced from the seized material or pursuant enquiries.

6.5.6 Under the circumstances, it is held that in view of the fact of the cash seizure of Rs.1,13,57,110/-, **the appellant's offer of** additional income in different AYs under, has to be believed, unless material to suggest the contrary exists.

| A.Y                   | Additional income offered   |
|-----------------------|-----------------------------|
| 2008-09               | Rs.1,05,00,000              |
| 2007-08               | Rs.10,00,000                |
| 2006-07               | 5,00,000                    |
| 2005-06               | Rs.5,00,000                 |
| 2002-03 to<br>2004-05 | NIL                         |
|                       | <b>Total Rs.1,25,00,000</b> |

Evidence of unaccounted income found in one year, cannot be presumed to exist in other years and estimated of unaccounted income based on such presumption cannot be approved.”

16. During the course of hearing, the Ld D.R strongly supported the estimation made by the AO. There is no dispute with regard to the fact that the revenue did not unearth any incriminating material, which could suggest that there was under billing or evasion of professional receipts. The revenue only stumbled with excess cash balance and the same was surrendered as income of the year in which the search took place. The assessee offered the same as his professional income. As observed by Ld CIT(A), the unexplained cash is required to be assessed in the year in which it was found as per the deeming fiction of provisions of sec. 69A of the Act, which does not mean that the assessee would have earned the entire excess cash balance in one year. Hence, in our view also, the assessing officer misguided himself by presuming that the entire undisclosed cash balance represents his professional fee collected during the financial year relevant to the assessment year 2008-09. Hence, in our view, the Ld CIT(A) has rightly concluded that the assessing officer did not bring any material on record to support his case of estimation of professional receipts of earlier years. We also notice that the assessing officer has assessed the net profit on the alleged suppressed professional receipts, meaning thereby, the assessing officer has presumed that the assessee would have suppressed corresponding expenses also. Again it is

only a guess work only, unsupported by any material. Similarly, the average daily collection estimated by the AO was also mere guess work. In effect, there is no material available with the AO to show that the assessee has suppressed professional receipts as well as expenses in order to substantiate the estimation made by him. During the course of hearing, the Ld D.R placed reliance on the decision rendered by Hon'ble Punjab & Haryana High Court in the case of Ved Prakash Vs. CIT (265 ITR 642) to support the estimation made by the assessing officer. However, we notice **that the Hon'ble Punjab & Haryana High Court has considered a case,** wherein materials were found during the course of search. However, in the instant case, no material relating to suppression of professional fee receipts was found. Accordingly, we are of the view that the Id CIT(A) was justified in deleting the additions in all the years.

17. Now we shall stake up the penalty appeals filed by the assessee for assessment years 2005-06 to 2008-09 against the penalty levied u/s 271(1)(c) of the Act. The assessing officer levied penalty u/s 271(1)(c) of the Act on the following items:-

- (a) Additions made u/s 69C of the Act in AY 2005-06 to 2008-09.
- (b) Additional income disclosed by the assessee in AY 2005-06 to 2007-08.

In the preceding paragraphs, we have deleted the additions made u/s 69C of the Act and hence the penalty levied on those additions is liable to be deleted, since the said additions themselves does not survive.

18. With regard to the penalty levied on the additional income surrendered by the assessee, the Ld A.R submitted that the assessee has offered excess amount of about Rs.20.00 lakhs voluntarily and the revenue did not seize any material to support the said disclosure. He submitted that the revenue has seized excess cash balance of Rs.1.04 crores and the

**said amount was offered as assessee's** income in AY 2008-09. The Ld A.R submitted that the voluntary surrender should not be construed as concealment of income, in the absence of any incriminating material. The Ld A.R also submitted that the assessee has offered the same in the returns of income filed u/s 153A of the Act and they were also accepted by the AO. Accordingly he submitted that there is no difference between the returned income and assessed income in sec. 153A proceedings and hence there is no presumption of concealment of income. The Ld A.R submitted that the assessing officer was not justified in law in comparing the income assessed u/s 153A of the Act with the return filed u/s 139 of the Act. In support of this proposition, he placed reliance on the decision rendered by the Delhi bench of Tribunal in the case of Prem Arora Vs. DCIT (2012)(78 DTR(Del)(Trib) 91).

19. The Ld D.R, on the contrary, submitted that the assessee has undisclosed income, which is within his personal knowledge, by way of additional disclosure. He submitted that the assessee would not have disclosed additional income, had there been no search. Accordingly, the Ld D.R contended that the additional disclosure made by the assessee is liable for penalty u/s 271(1)(c) of the Act. The Ld D.R placed reliance on the decision rendered by Delhi bench of Tribunal in the case of JRD Stock Brokers (P) Ltd Vs. ACIT (2009)(124 TTJ 566).

20. We heard rival contentions and perused the record. We notice that the decision in the case of JRD Stock brokers (P) Ltd (supra) has been rendered in the context of penalty levied u/s 158BFA of the Act. Further, we notice that the assessee therein did not disclose additional income in the return of income filed by it u/s 158BC of the Act. Further it is stated that the undisclosed income was discernible from the seized materials. Where as in the instant case, the penalty has been levied u/s 271(1)(c) of

the Act, the assessee has disclosed additional income in the return of income filed by him and further there was no seized material to support the additional disclosure made by the assessee. Hence, we are of the view that the decision rendered in the case of JRD Stock Brokers (P) Ltd (supra) is not applicable to the instant case.

21. If we analyze the facts behind the additional disclosure of about Rs.20.00 lakhs made by the assessee, we notice that he has voluntarily offered the same and no material was seized during the course of search warranting the additional disclosure. The assessee has duly disclosed the income voluntarily offered by him in the returns of income filed in response to the notices issued u/s 153A of the Act. During the course of penalty proceedings also, the assessee has offered the explanation to that effect and the said explanation was not found to be false. During the course of search proceedings, the revenue has noticed/seized all the materials available with the assessee and no incriminating material supporting the additional disclosure was found. Under these set of facts, we are of the view the tax authorities are not justified in presuming that the additional disclosure voluntarily made by the assessee shall constitute concealed income warranting penalty u/s 271(1)(c) of the Act.

22. In view of the foregoing discussions, we set aside the order of Ld CIT(A) in all the impugned years and direct the assessing officer to delete the penalty levied u/s 271(1)(c) of the Act in all the years under consideration.

23. We shall now take up the appeal filed by the assessee for assessment year 2008-09 against the penalty levied u/s 271AAA of the Act. As noticed earlier, the assessee had offered the excess cash balance of Rs.1.05 crores as his income for AY 2008-09 out of the cash of Rs.1.13 crores found during the course of search. Hence the assessing officer

levied penalty u/s 271AAA of the Act at 10% of the additional offer of Rs.1.05 crores made in the statement taken u/s 132(4) of the Act. Before the Ld CIT(A), the assessee claimed immunity from penalty by contending that he has complied with the conditions prescribed in sec. 271AAA(2) of the Act. However, the Ld CIT(A) took the view that the assessee has not disclosed the manner in which the undisclosed income was earned and accordingly the Ld CIT(A) confirmed the penalty.

24. We heard the parties and perused the record. The assessee is seeking immunity from penalty levied u/s 271AAA(1) of the Act on the reasoning that he has complied with the provisions of sec. 271AAA(2) of the Act. As per the provisions of sec. 271AAA(2), penalty u/s 271AAA(1) of the Act is not leviable if the assessee:-

- (a) in the course of search, in a statement under sub-section (4) of section 132, admits the undisclosed income and specifies the manner in which such income was derived;
- (b) substantiates the manner in which the undisclosed income was derived; and
- (c) pays the tax, together with interest, if any, in respect of the undisclosed income.

25. There is no dispute with regard to the fact that the assessee has complied with conditions that the assessee has disclosed the income in the statement taken u/s 132(4) of the Act and the assessee has paid the tax together with interest, if any, in respect of the undisclosed income. The Ld CIT(A) has taken the view that the assessee has not disclosed/substantiated the manner in which undisclosed income was derived. The Ld A.R submitted that the assessee has disclosed the undisclosed income in the return of income as his professional income and hence the disclosure so made satisfied the **condition of "manner in which**

the undisclosed income was derived". In this regard, he placed reliance on the decision rendered by the Cuttack bench of Tribunal in the case of Ashok Kumar Sharma Vs. DCIT (2012)(149 TTJ (Ctk)(UO) 33), wherein it was held as under:-

**"Undisputedly the assessee has shown the undisclosed income under the head "income from business" in the returns filed by them and that was accepted by the Department by passing the assessment orders accordingly. Therefore, the cases of the assessee fall exactly within the purview of sub-s (2) of s. 271AAA. Therefore the provisions contained in sub.s (1) of s. 271AAA are not applicable..."**

26. On the contrary, the Ld D.R contended that the assessee did not specify the manner in which the undisclosed income was derived.

27. We have heard rival contentions on this issue. There is no dispute with regard to the fact that the assessee has disclosed the undisclosed income as his professional income and the same has been accepted by the assessing officer. In fact, the assessing officer has proceeded to estimate the professional income of the preceding years on the basis of the above said disclosure. Hence, we are of the view that the decision rendered by the Cuttack bench in the above said case squarely applies to the facts prevailing in the instant case. We also notice that the Nagpur bench of Tribunal has also taken identical view in the case of Concrete Developers V/s ACIT in ITA No.381/Nag/2012 dated 20.3.2013.

28. Consistent with the view taken by the co-ordinate benches in the above cited cases, we also hold that the assessee has complied with all the three conditions specified in sec. 271AAA(2) of the Act and accordingly, the penalty levied by the AO u/s 271AAA(1) of the Act is liable to be deleted. Accordingly, we set aside the order of Ld CIT(A) and direct the AO to delete the penalty levied u/s 271AAA of the Act for AY 2008-09.

29. In the result, all the appeals filed by the assessee are allowed and all the appeals filed by the revenue are dismissed.

Pronounced accordingly on 11th Sept, 2015.

घोषणा खुले न्यायालय में दिनांक: 11th Sept, 2015 को की गई ।

**Sd**

**(AMARJIT SINGH)  
JUDICIAL MEMBER**

**sd**

**( B.R. BASKARAN)  
ACCOUNTANT MEMBER**

मुंबई Mumbai: 11th Sept, 2015.

व.नि.स./ SRL , Sr. PS

**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)- concerned
4. आयकर आयुक्त / CIT concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /  
DR, ITAT, Mumbai concerned
6. गार्ड फाईल / Guard file.

True copy

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई /ITAT, Mumbai