

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'ए' अहमदाबाद ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“ A ” BENCH, AHMEDABAD**

सर्वश्री मुकुल कुमार श्रावत, न्यायिक सदस्य एवं श्री बी.पी.जैन, लेखा सदस्य के समक्ष ।  
**BEFORE SHRI MUKUL Kr.SHRAWAT, JUDICIAL MEMBER AND**  
**SHRI B.P.JAIN, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No.1909/Ahd/2009  
(निर्धारण वर्ष / Assessment Year : 2003-04)

Ashima Dyecot Ltd. (Formerly known as Ashima Dyecot Pvt.Ltd.) Texcellance Complex Khokhra Mehmedabad Ahmedabad – 380 021	<b>बनाम/</b> Vs.	The DCIT Circle-1 Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No.:AACCA 2753 K		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से / Appellant by :	Shri V.R.Choksi, A.R.
प्रत्यर्थी की ओर से/Respondent by :	Shri Abhishek Kumar, Sr.D.R.

सुनवाई की तारीख / Date of Hearing : 27/12/2011  
घोषणा की तारीख /Date of Pronouncement : 27/12/2011

आदेश / O R D E R

**PER SHRI MUKUL Kr. SHRAWAT, JUDICIAL MEMBER :**

This is an appeal at the behest of the Assessee which has emanated from the order of Learned CIT(Appeals)-VI, Ahmedabad dated 26/02/2009 passed for A.Y. 2003-04. The assessee has challenged the levy of penalty u/s.271(1)(c) of the I.T.Act of Rs.16,50,000/- which was confirmed by the Learned CIT(Appeals).

2. Facts in brief as emerged from the corresponding assessment order passed u/s.143(3) of the I.T. Act, 1961 dated 31/01/2006 and the penalty order passed u/s.271(1)(c) of the I.T.Act, 1961 dated 31/03/2008 were that the addition in respect of write off of Rs.44,89,898/- was made pertaining to sundry parties and that was the reason for initiation of penalty proceedings. That disallowance in quantum proceeding was challenged before the Tribunal and Respected Co-ordinate Bench “C” ITAT Ahmedabad vide ITA No.798/Ahd/2007 for A.Y. 2003-04 titled as “Ashima Dyecot Ltd. Ahmedabad vs. Asst.CIT, Ahmedabad” vide order dated 06/11/2009 has restored the matter to the file of the Assessing Officer with certain directions; relevant paragraph No.4 is reproduced below:-

*“4. We have carefully gone through the orders of authorities below and perused the material available on record. It is pertinent to note that in para 3.1 of the impugned order, the Learned Commissioner of Income Tax (Appeals) noted the aforesaid plea of the assessee but has not adjudicated the same. In these circumstances, we find considerable force in the submission of the ld.D.R. We accordingly set aside the impugned order of Learned Commissioner of Income Tax (Appeals) and restore the same to the file of A.O. with the direction that the Learned Commissioner of Income Tax (Appeals) will re-adjudicate the appeal of the assessee afresh including the plea raised before him which is noted in para 3.1 & 3.2 of the impugned order after giving opportunity of being heard to both the sides.”*

3. We have heard the submissions of both the sides and in the light of the concession granted by them, we hereby restore the issue of penalty u/s.271(1)(c) of the I.T.Act, back to the file of the Assessing Officer to re-adjudicate *de novo* as per the outcome of the assessment proceedings

afresh as per law. We hold accordingly. Ground raised by the assessee is therefore allowed but for statistical purposes.

**4. In the result, assessee's appeal is allowed but for statistical purposes.**

यह आदेश खुले न्यायालय में सुनाया गया है।

**This Order is pronounced in open Court on 27/12/2011**

**Sd/-**  
(बी.पी.जैन)  
लेखा सदस्य  
( **B.P. JAIN** )  
**ACCOUNTANT MEMBER**

**Sd/-**  
(मुकुल कुमार श्रावत)  
न्यायिक सदस्य  
( **MUKUL Kr. SHRAWAT** )  
**JUDICIAL MEMBER**

टी.सी.नायर, व.नि.स./ T.C. NAIR, Sr. PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-VI, Ahmedabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)**  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad