

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'बी', अहमदाबाद  
सर्वश्री श्री मुकुल कुमार श्रावत, न्यायिक सदस्य एवं श्री ए.मोहन अलंकामोनी, लेखा सदस्य के समक्ष  
IN THE INCOME TAX APPELLATE TRIBUNAL : 'B' BENCH : AHMEDABAD  
**Before Shri Mukul Kr.Shrawat, J.M. & Shri A.Mohan Alankamony, A.M.)**

आयकर अपील सं.ITA No.2825/Ahd./2011 निर्धारण वर्ष/Assessment Year 2005-2006

I.T.O., Ward-9(4), Ahmedabad –Vs- M/s.Kataria Logistics, A'bad  
(PAN : AAEFK 6542K)  
(अपीलार्थी/Appellant) (प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant By : Shri Samir Tekriwal, Sr.D.R.  
प्रत्यर्थी की ओर से / Respondent By : Shri Ankit Talsania, A.R.

सुनवाई की तारीख / Date of Hearing	: 21/02/2012
घोषणा की तारीख / Date of Pronouncement	: 24/02/2012

### **आदेश / Order**

#### **Per Shri A.Mohan Alankamony, Accountant Member :**

This appeal is filed by the Revenue, aggrieved with the order of the Id. CIT(Appeals)-XV, Ahmedabad in Appeal No.CIT(A)/XV/ITO/9(4)/15/10-11 dated 13.09.2011 for the assessment year 2005-2006 passed under section 250 r.w.s.271(1)(c) of the I.T. Act, 1961.

2. The Revenue has raised the following grounds in its appeal.

*"1. The Ld. Commissioner of Income-tax (Appeals)-XV, Ahmedabad has erred in law and on facts in deleting the penalty of Rs.1,27,80,657/- levied u/s.271(1)(c) of the Act.*

*2. On the facts and in the circumstances of the case, the Ld. Commissioner of Income-tax (Appeals)-XV, Ahmedabad ought to have upheld the order of the Assessing Officer.*

*3. It is therefore, prayed that the order of the Ld. Commissioner of Income-tax (Appeals)-XV, Ahmedabad may be set-aside and that of the Assessing Officer be restored."*

3. At the outset it is observed that the Id. CIT(A) was of the view that since in the quantum appeal, the matter was set aside and sent back to the file of the Id. CIT(A) by the Hon'ble Tribunal vide its order dated 29.12.2010, the penalty order of the Id. AO dated 23.03.2010 will not survive. In fact, the Hon'ble Tribunal in the quantum appeal had restored the matter back to the file of the Id. CIT(A) for deciding the issue afresh. In such circumstances, we are of the considered view that the penalty order should be considered in the light of the quantum appeal decided by the Id. CIT(A). For this reason, we set aside the order of the Id. CIT(A) dated 13.09.2011 and restore the matter back to the file of the Id. CIT(A) to consider the penalty order of the Id. AO in the light of his findings in the quantum appeal.

4. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

इस आदेश की घोषणा दिनांक: 24/02/2012 को न्यायालय में की गई ।

Sd/-  
(Mukul Kr. Shrawat)  
Judicial Member

Sd/-  
(A.Mohan Alankamony)  
Accountant Member

DATED : 24/02/2012

**आदेश की प्रतिलिपि अग्रेषित:-**

1. अपीलार्थी
2. प्रत्यर्थी
3. संबंधित आयकर आयुक्त
4. आयकर आयुक्त- अपील-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद ।
6. गार्ड फाइल

आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद।

Talukdar/ Sr. P.S.