IN THE INCOME TAX APPELLATE TRIBUNAL

Pune Bench "A" , Pune

Before Shri I.C. Sudhir, Judicial Member
and Shri G.S. Pannu, Accountant Member

ITA No. 827/PN/2010
(F.Y.: 2008-09)

The Nasik Road Deolali Vyapari, ... Appellant
Sahakari Bank Ltd.
"Kalpawruksha"
Ashanagar,
P.B. NO. 207, Nashik Road-422101
PAN AAAAT4688C

v.

Director of Income Tax (CIB), ... Respondent
Pune

Appellant by : Shri. Pramod S. Shingte
Respondent by : Shri S.K. Ambastha
Date of hearing : 13.10.11
Date of Pronouncement: 21.10.11

ORDER

Per I.C. Sudhir, JM

The appellant has questioned the validity of penalty u/s. 271FA of the Act levied by the Ld. Director of Income Tax (CIB), Pune on several grounds.

2. The Ld. A.R. cited the decision of Pune Bench of the Tribunal in similar appeal in the case of The Shahada Peoples Co-op. Bank, Nandurbar Vs. The Director of Income-tax (CIB), Pune, ITA No. 1159/PN/2010, A.Y. 2009-10, order dated 13th December, 2010 wherein under similar facts, the appellant was allowed by the Tribunal to withdraw the appeal with the liberty to file appeal before the appropriate authority in accordance with law, if so advised. The Ld. A.R. also cited the decision of Amritsar Bench of the Tribunal on an identical issue in the case of Sub-Registrar, Nakoar Vs. Director of Income Tax (2011) 57 DTR ASR (Tribunal) 497.

3. The Ld. D.R., on the other hand, placed reliance on the penalty order.

4. Having gone through the above cited decisions, we find that Pune Bench of the Tribunal in the case of Shahada Peoples Co-op. Bank, Nandurbar Vs. Director of Income Tax (CIB) (Supra) has accepted the submission of the appellant that the appeal against the order of the Director of Income Tax (CIB), was to be filed before the Commissioner of Income Tax (Appeal) as per provisions of Section 246A(1)(q) of the Act. Considering this submission, the Bench accepted request of the appellant to withdraw the appeal with the liberty to file appeal before the appropriate authority in accordance with law, if so advised. Respectfully following the afore-cited decision of the Pune Bench of the Tribunal under the similar facts, we allow the appellant to withdraw the present appeal with the liberty to file appeal before the appropriate authority, in accordance with law, if so advised.

5. Consequently, the appeal is treated as dismissed being non-maintainable before the Tribunal.

The order is pronounced in the open Court on 21st October, 2011

Sd/-	Sd/-
(G.S. PANNU)	**(I.C. SUDHIR)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Pune, dated the 21st October, 2011

US

Copy of the order is forwarded to :

1. The Appellant
2. The Respondent
3. The CIT , concerned
4. The D.R. "A" Bench, Pune
6. Guard File

By order

Assistant Registrar
Income Tax Appellate Tribunal
Pune