

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री भागचंद, लेखा सदस्य एवं श्री कुल भारत, न्यायिक सदस्य के समक्ष
BEFORE: SHRI BHAGCHAND, AM & SHRI KUL BHARAT, JM

आयकर अपील सं./ITA No. 42/JP/2015
निर्धारण वर्ष/Assessment Year : 2010-11

M.D. Garg & Sons, HUF, Prop. M/s M.S. Jewellers, Bazaza Bazar, Alwar	बनाम Vs.	Asstt. Commissioner of Income-tax, Circle-2, Alwar
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AABHM8864P		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

आयकर अपील सं./ITA No. 70/JP/2015
निर्धारण वर्ष/Assessment Year : 2010-11

ITO, Ward-2(1) Alwar	बनाम Vs.	M.D. Garg & Sons, HUF, Prop. M/s M.S. Jewellers, Bazaza Bazar, Alwar
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AABHM8864P		
प्रत्याक्षेपक/Objector		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/ Assessee by : Shri K.L. Mulchandani
राजस्व की ओर से/ Revenue by : Shri R.A.Verma (Addl. CIT)

सुनवाई की तारीख/ Date of Hearing : 08/09/2017
उदघोषणा की तारीख/ Date of Pronouncement : 20/09/2017

आदेश/ ORDER

PER: BHAGCHAND, A.M.

Both these cross appeals are against the order of the Id. CIT(A), Alwar dated 25-11-2014 for the assessment year 2010-11. The grounds of appeal of revenue and assessee are as under:

Grounds in Assessee's Appeal.

- "(i) On the facts and in the circumstances of the case the learned CIT(A) has factually and legally erred in confirming the addition of Rs. 12,19,569/- out of the addition of Rs. 80,17,040/- on account of the alleged 'excess stocks' without appreciating the facts of the case in right perspective. The same deserves to be deleted.*
- (ii) On the facts and in the circumstances of the case the learned CIT(Appeals) has factually and legally erred in confirming addition to the extent of Rs. 72,702/- out of the addition of Rs. 15,01,327/- made by the AO under the head of 'unrecorded debtors' without appreciating the facts of the case in right perspective. The same deserves to be deleted.*
- (iii) On the facts and in the circumstances of the case, the learned CIT(A) has factually and legally erred in confirming the addition of Rs. 4,00,000/- out of addition of Rs. 7,13,000/- made by the AO under the head of 'investment in immovable property' without appreciating the facts of the case in right perspective. The same deserves to be deleted.*
- (iv) On the facts and in the circumstances of the case, the Id. CIT(A) has factually and legally erred in confirming the addition of Rs. 876/- out of addition of Rs. 48,700/- made by the AO on account of the 'alleged excess cash' without appreciating the facts of the*

case in right perspective. The same deserves to be deleted.

- (v) *The appellant craves to added, amend or withdraw any of the ground of appeal either before or at the time of hearing of appeal.*

Grounds in Revenue's appeal

- (i) *That the Commissioner of Income Tax (Appeals), Alwar has erred in law as well as on the facts and circumstances of the cases in ignoring the statement by Shri. Deepak Garg member HUF during the course of survey proceedings.*
- (ii) *That the Commissioner of Income Tax (Appeals), Alwar has erred in law as well as on the facts and circumstances of the cases as he has allowed relief to the assessee without appreciating the facts that the AO has rejected the updated books of account u/s 145(3) of the Act.*
- (iii) *That the Commissioner of Income Tax (Appeals), Alwar has erred in law as well as on the facts and circumstances of the case in restricting the addition of Rs. 80,17,040/- to Rs. 12,19,569/- made by the AO on a/c of excess stock without appreciating material facts of the case.*
- (iv) *That the Commissioner of Income Tax (Appeals), Alwar has erred in law as well as on the facts and circumstances of the case in restricting the addition of Rs. 15,01,327/- to Rs. 72,702/- made by the AO on a/c of unrecorded debtors without appreciating material facts of the case.*
- (v) *That the commissioner of income-tax (appeals), Alwar has erred in law as well as on the facts and*

circumstances of the case in restricting the addition of Rs. 7,13,000/- to Rs. 4,00,000/- made by the AO on a/c unexplained investment in immovable property.

(vi) That the Commissioner of Income Tax (Appeals), Alwar has erred in law as well as on the facts and circumstances of the case in deleting the addition of Rs. 1,00,000/- made by the AO on the a/c of unexplained investment in lottery.

(vii) That the Commissioner of Income Tax (Appeals), Alwar has erred in law as on the facts and circumstances of the case in restricting the addition of Rs. 48,700/- to Rs. 876/- made by the AO on a/c of excess cash found during the course of survey proceedings.

2. In this case, the return of income was e-filed on 26.09.2010 declaring an income of Rs. 2,87,040/-. The assessment was framed u/s 143(3) of the Act. While framing the assessment, the AO made various additions viz. Rs. 80,17,040/- on account of excess stock, Rs. 15,01,327/- on account of unrecorded debtors, Rs. 7,13,000/- on account of unexplained investment in immovable property, Rs. 1,00,000/- on account of unexplained investment in lottery and Rs. 48,700/- on account of excess cash found. Aggrieved, the assessee preferred appeal before Id. CIT (A), who after considering the submissions of the assessee partly allowed the appeal. Now both the sides are in appeal against the order of Id. CIT (A).

3. Ground No. 1 of assessee's appeal and ground No. 3 of the revenue's appeal are on the issue of partly deleting and /sustaining the addition made on account of excess stock.

4. During the course of survey party worked out stock of gold jewellery of Rs. 5784.885 gms. The value of this stock comes to Rs. 76,93,897/- and silver ornament valued at Rs. 3,23,143/-. Thus Assessing Officer made in addition of Rs. 80,17,040/-. Before the CIT(A) Id. AR for the assessee submitted that Assessing Officer heavily relied upon invalid statement given by Shri Deepak Garg recorded during the survey operations. He also submitted that in the post-survey and assessment proceedings. The assessee raised certain objections which were not considered by the AO in proper prospects. He also submitted that there was no 'corroborative' evidence whatsoever which could substantiate the additional income as offered by Shri Deepak Garg. The assessee submitted documentary evidences in the form of purchase bills and bank remittance etc, with regard to the purchases which remained unrecorded in books at the time of survey. These evidences have not been rebutted by the revenue. These evidences clearly establishes that statement given by Shri Deepak Garg was not based on any incriminating document. Moreover Shri Deepak Garg has no 'locus standi'

to make such statement. There cannot be a case for excess stock as the survey party has worked out excess stock on the basis of 'incomplete books'. After re-drawing the trading account on the basis of updated books, there was no discrepancy in the quantities of the stock tallied with the quantities of the stock as worked out by the survey team. The quantities of the stocks tallied with the quantities to stocks as found at the same time of survey operation. There was no discrepancy in the quantities of the stock as noted by survey team at the time of survey operation. There was no discrepancy in the quantities of the stocks. The Assessing Officer could not find any fault with such trading account of the assessee and also in the stock position. Similarly, the correctness and genuineness of the purchases which were not recorded in books at the time of survey operation and when the records were updated and books audited, there was no discrepancy the Assessing Officer examined, verified and found no discrepancy in the audited books of assessee. In the absence of any material contrary to the claim of the 'HUF' no valid addition can be made. Therefore the CIT(A) has rightly deleted the additions. He further submitted that CIT(A) should have deleted the whole addition. CIT(A) has granted part of the furnishing holding as under:

"5.3 I have perused the assessment order as well as submissions made by the appellant and find that an addition of Rs. 80,17,040/- has been made by the AO on account of excess stock of gold and silver ornaments found during the course of survey at the business premises of the appellant. During the course of survey, excess stock of gold amounting to Rs. 76,93,897 was found apart from excess stock of silver of Rs. 3,23,143.

5.4 The appellant has stated that a survey u/s 133A of the IT Act was conducted on 12.10.2009. The survey operation had to be carried on despite the fact that Karta of the HUF i.e. the assessee was hospitalized on account of illness and therefore, the remaining activities had to be concluded in the presence of his son. The books of accounts were found to be incomplete at the time of survey operation on account of continued absence of the assessee from the business due to illness. The AO has placed reliance only on the difference found in the value of stock at the time of survey without considering the books of accounts which were completed after incorporating all the pending bills and vouchers.

5.5 It is submitted by the appellant that in the details placed before the AO as per the updated books, there is no discrepancy weight-wise in the quantities of the gold ornaments. It is also submitted that the difference in the quantity of gold found at the time of survey and as per books of accounts is due to the differences in the rates of gold adopted by the valuer. It is further stated that copies of purchase vouchers and bank accounts statements were placed along with the audited books of accounts before the AO and no contradictory material could be brought on record. Similarly, the difference in the value of silver stock was on account of variation in the level of purity taken by the approved valuer of the Income Tax Department.

5.6 During the course of assessment proceedings complete books of accounts and purchase vouchers of stock were produced before the AO for examination and no advance material could be gathered by the AO and no defect in the books of accounts was pointed out.

5.7 I have carefully considered the submissions made, material placed on record and find that a copy of day-wise stock register of gold ornaments was produced in the course of assessment proceedings. It was stated before the AO that the weight of the gold ornaments on the date of survey was 7173.77 grams as against the weight of 7284.30 grams shown in the valuation report prepared by the approved valuer at the time of survey operations. Thus, there is a difference of 110.6 grams in the quantum of gold ornaments. The appellant has explained that this difference is on account of differences in the level of purity, which is nothing but a bald statement without any supporting evidences.

5.8 However, as regards the differences in the value of the stock of gold ornaments is concerned, the valuation officer had valued such stocks at Rs. 95,15,730/- as against the value of Rs. 86,18,809 shown in the books of accounts. Thus, there is difference of Rs. 8,96,921 in the valuation of stock of gold ornaments which remains un-reconciled. The appellant has though tried to explain the same on account of differences in the level of purity of gold which is found to be not acceptable and without any supporting evidence.

5.9 Similarly, as regards the differences in the value of stock of silver is concerned the net weight of silver articles and ornaments comes to Rs. 27854 grams as against 19188 grams shown in the books on the date of survey. Thus there is difference of 8666 grams. The appellant has explained against that this difference is mainly attributable to the percentage of purity taken by the valuer. However, in the absence of any material being brought on record the explanation furnished by the appellant is found to be not tenable and accordingly the value of difference in the stock of silver articles and ornaments is 8666 grams x Rs. 28 per gram being the rate of silver adopted by the silver, which comes to Rs. 2,42,648/-.

5.10 Besides, the above I find that during the course of survey precious stones weighing 60 carats were found and were valued at Rs. 80,000 by the approved valuer. No explanation could be given in the course of appellate proceedings with regard to the stock of precious stones found at the business premises. No

entries in the books of accounts were also stated to have been found.

5.11 I find that AO has computed the value of unexplained investment in stock on the basis of stock valuation done at the time of survey without giving any credit for the purchase vouchers which were not entered in the books of accounts. The AO has in the course of assessment proceedings accepted the entries recorded in the books of accounts alongwith the bills and vouchers produced before him and has not brought on record any fact or finding contrary to this effect. No purchase bill or the payment made could be proved by the AO as not genuine in the course of assessment proceedings. Therefore, there is no rationale in the quantum of unexplained investment worked out by the AO in the order on the basis of presumptions and surmises.

5.12 In view of the above discussion, I hold that unexplained investment in stock comes to Rs. 8,96,921 in gold ornaments; Rs. 2,42,648 in silver articles and ornaments and Rs. 80,000 in precious stones. On the basis of above details, as discussed in the preceding paras, this unexplained investment in stock comes to Rs. 12,19,569 (Rs. 8,96,921 + 2,42,648 + 80,000). Therefore, I confirm the addition of Rs. 12,19,569 on account of unexplained investment in the stock out of the total addition of Rs. 80,17,040 made by the AO under this head."

5. On the other hand, Id. DR relied on the order of Assessing Officer.
- 6 We have heard the rival contentions of both the parties and perused the materials available on record. It is noticed that the assessee has submitted updated copy of day-wise stock register of gold ornaments. During the course of assessment proceedings, the Assessing Officer could not found any discrepancy in the purchases which were not entered in the books of accounts at the time of survey. The only discrepancy found was only 110.6 grams in the quantum of gold

ornaments. There was the difference in the value of the stock of the gold ornaments. On that basis, the difference worked out at Rs. 8,96,921/-. CIT(A) has sustained addition to that extent. In the case of silver ornaments the difference was of Rs. 866 grams and CIT(A) has sustained addition of Rs. 2,42,648/-. With regard to the precious stones weighing 60 carats valued at Rs. 80,000, no proper explanation was submitted before the authorities below and also before us also, therefore after considering all the aspects, the order of CIT(A) on this issue is sustained. In the result appeal of revenue as well as by the assessee are dismissed.

7. The ground no. 2 of the assessee and ground No. 4 of the revenue's appeal are on the same issue. AO made addition of Rs. 15,01,327 and CIT(A) sustained addition of Rs. 72,702/-.

8. During the course of survey operation, a notebook containing unrecorded debtors was found which was impounded as Annexure-A6. Shri Deepak in his statement stated that some of the debtors are not recorded in the regular books of account. The total of these debtors was Rs. 24,27,005/-. The details of the debtors are as per para 6.1 of the order of CIT(A). The assessing Officer after considering the reply of the assessee found that debtors for amounting 12,51,327/- are unrecorded

and on the basis of statement of Shri Deepak Garg a lump sum disallowance of Rs. 2,50,000/- was also added and the total disallowance made was 15,01,37/-.

9. The Id. CIT (A) granted part relief to the assessee by holding as under:

“6.3 I have perused the assessment order as well as submissions made by the appellant and find that an addition of Rs. 15,01,327 has been made by the AO on account of unrecorded debtors. The addition has been made on account of certain papers showing sale of items of jewellery were found in the course of survey operation and were found to have been not recorded in the books of accounts. The total amount of these unrecorded sales were worked out at Rs. 12,51,327 and after making a further addition of Rs. 2,50,000/- a total addition of Rs. 15,01,327 was made on this account.

6.4 The appellant has stated that the addition made on this ground is vague and ambiguous as AO was not clear about the nature of the addition to be made. The AO has specified this amount as disallowance of unrecorded debtors. The debtors are the part of the Balance Sheet only and are not debited to P&L A/c, so the question of disallowance of debtors does not arise as per principles of Accountancy. More-over, all the debtors as recorded in the loose papers of annexure A-6 were recorded in the audited books. Therefore, the balance of these debtors cannot be treated as unrecorded income. It is also submitted that the provisions of section 69 of the Act would come into play in respect of the transactions which are not recorded but these transactions being recorded in the books do not call for any addition u/s 69 of the Act.

6.5 The appellant has further stated that AO has neither disputed such debtors so found recorded in the updated books of accounts nor has brought any material on record by making enquiries to verify the correctness of such debtors. In the circumstances, the

debtors once found recorded in the audited books being uncontradicted cannot be regarded as un-accounted for. It is pertinent to note that the provisions of section 69 of the Act would come into play for making deeming addition only if these debtors were out of books. This is pre-condition to invoke provisions of section 69 of the Act. Again it is a settled law that once books are rejected u/s 145(3) of the Act only then the deeming additions u/s 69 of the Act cannot be made legally. Further, there was no basis for making lump sum addition of Rs. 2,50,000 without bringing any material on record.

6.6 I have carefully examined the submissions made in this regard and find that AO has failed to conduct any enquiries from the so called unrecorded debtors in the course of assessment proceedings. The books of accounts were admitted to have been incomplete at the time of survey on account of illness of the karta of HUG. AO has failed to bring on record any adverse material in the assessment proceedings before making the addition on this ground. However, I find that these papers found at the time of survey pertain to the sales transactions executed by the appellant and against which money was to be collected. Therefore, the addition which could legally be made on this ground and would be permissible is the profit earned on such sales rather than the gross amount of unrecorded sales. However the argument of the appellant that these sales have already been incorporated in the books which were completed and produced before the AO is not accepted as after going through copies of such papers, it is seen that these are not regular sales bills but small purchies, which were not intended to have been accounted for.

6.7 The total sales as worked out (on the basis of Annx. A-6) in the course of survey was Rs. 12,51,327 and therefore, I do not agree with the proposition of making a further lump sum addition of Rs. 2,50,000/- without having given any specific instance of unrecorded sales by the AO. Now the issue which arises for consideration is 'whether any addition could be made on account of unrecorded sundry debtors or not'. Considering all these facts and judicial decisions on this issue, I hold that only the unaccounted profits from such sales could be taxed rather than whole amount of sales. It is further stated by the appellant that

these sales were recorded in the books of accounts at the time of completing the same and therefore, the profit earned on such sales has also been disclosed in the account books.

6.8 I have gone through the case records of the appellant and find that a GP rate of 9.19% has been declared for the period under consideration. Therefore, while estimating the income earned on such sales, credit needs to be given for that element of profit which has already been declared by the appellant while recording such sales in the books of accounts. Considering a GP rate of 15% on sales of Rs. 12,51,327, the unaccounted profit on such sales would work out to (15%-9.19% of 12,51,327) Rs. 72,702. Accordingly, I confirm an addition of Rs. 72,702 on account of profits earned on unrecorded sales out of the total addition of Rs. 15,01,327 made by the AO on this account.

10. We have heard both the sides on this issue. We noticed that CIT(A) has estimated the gross profit @15% on the sales Rs. 12,51,327/- and estimated the profit. CIT(A) also reduced gross profit rate of 9.19% which was declared by the assessee. Before us, both the sides are not able to controvert the findings recorded by the CIT(A). Therefore, we are sustaining the order of CIT(A) on this issue. Thus ground No. 2 of the assessee and ground No. 4 of the revenue stand dismissed.

11. The ground No. 3 of assessee's appeal and ground No. 5 in the revenue's appeal are related to the partly sustaining the addition made on account of investments in based on impounded. During the course of the survey operation, the brief facts of the issue are as under Page No. 3

of Annexure-6. During the course of survey operation shows. It was related to investment property. Shri Deepak Garg was asked to regarding the payments made out as per this impounded paper and he submitted that he was any amount undisclosed income to M/s M.S.Jewellers and it has accordingly and it has accordingly taken on account. However, after considering the pleadings of the assessee CIT(A) granted the partly by holding as under:

“7.3 I have perused the assessment order as well as submissions made by the appellant and find that an addition of Rs. 7,13,000 has been made by the AO on account of unexplained investment in the purchase of immovable property. The addition was made on the basis of statement of son of the Karta of HUF i.e. the assessee recorded at the time of survey. The addition has been based on noting made on page 3 of annexure A6 of the papers found in the course of survey.

7.4 The appellant has stated that the addition so made is contrary to the principles of ‘equity and natural justice’ and no opportunity was allowed to the appellant at any stage of the assessment proceedings. AO has placed reliance on the invalid statement of Shri Deepak Garg, son of the appellant and no material in support of such addition was brought on record. It is submitted that on perusal of this page, it may be seen that all the transactions as jotted down on this page stand crossed and therefore is not a valid document. AO has failed to distinguish any particular entry with others appearing on the same page for making this addition. In absence of such exercise, no valid addition can be made on the ‘pick and choose’ basis without assigning any cogent reason.

7.5 It is further submitted that the appellant ‘HUF’ did not acquire any property during the year under consideration. No evidence or any material is brought on record to indicate any investment by the ‘HUF’ in any property. In absence of any such

material or evidence, no valid addition can be made on presumptions and surmises.

7.6 Having considered the material available on record, I find that it would be pertinent to examine the nature of notings made on page 3 of annexure A6, which is being reproduced for the sake of convenience.

7.7 It may be seen from the above, that the nature of transactions on this page pertain to financial dealings which certain persons, whose names have been mentioned against the amounts. The crossed figures re-present, possibly the amounts which have been settled by way of receipt/payment. In the middle of this page, there is a noting जमीन against which Rs. 4,00,000 have been written and which are after crossing certain other findings. The appellant has failed to substantiate the nature of such payments and therefore it can be treated as unexplained investment in the purchase of property which has not been disclosed to the Department. However, as regards the remaining notings on the paper are concerned, they have already been considered while working out the unaccounted sundry debtors (of Annexure A6) in the above mentioned grounds of appeal. Accordingly, I confirm the addition of Rs. 4,00,000 on account of unexplained investment in the property as against the total addition of Rs. 7,13,000 on this account."

12. After hearing both the sides we found that assessee was not able to explain the investments of Rs. 4,00,000/- in जमीन while other notings figures and in the paper were considered while working out account. The unaccounted sundry debtors as per the annexure A-6.

13. After considering all relevant facts, we find that CIT(A) has rightly appreciated the facts on the issue. Therefore, we sustain the order of CIT(A).

14. Ground No. 4 in assessee appeal and ground No. 7 in the revenue in appeal relates to the partly sustaining/deleting the addition made of Rs. 48,700/- on account of alleged excess cash the CIT(A) the issue as under:

"9.3 I have perused the assessment order as well as submissions made by the appellant and find that an addition of Rs. 48,700 has been made by the AO on account of excess cash found at the time of survey.

9.4 The appellant has stated that no opportunity was given to the appellant by the AO for giving an explanation before making the addition on this issue. It is submitted that the books of account were not complete at the time of survey and after completing the same, accounts were produced before the AO and no deficiencies have been pointed out on this issue.

9.5 Considering the material available on record, I find that in the course of assessment proceedings after completing the books of accounts, it was submitted by the appellant that on the date of survey cash of Rs. 88,700 was found and as per the updated books of accounts the cash balance works out to Rs. 87,824. The appellant has not been able to give an explanation on this and I hold that the excess cash available on the date of survey works out to Rs. 876 only and also the AO could not bring on record any material to justify the addition made. Accordingly, I confirm the addition of Rs. 876 out of the total addition of Rs. 48,700 made by the AO on this account."

15. We have heard the rival contentions of both the parties and perused the materials available on record. Since both sides are not able to controvert the finding recorded by CIT(A) with respect to cash balance available with assessee's on the day of survey, therefore, we

sustain the findings recorded by CIT(A). In the result ground No. 7 of the revenue ground No. 4 of this appeal stand dismissed.

16. Ground No. 6 in the revenue in appeal is against the delete the addition of Rs. 1,00,000/- on account of unexplained investment in the lottery the CIT(A) has held. This issue has been considered by CIT(A) in his order at para 8.1 to 8.5 which read as under:

"8.2 The AR of the appellant has contended as under:-

This addition has been discussed in paras 9.1 to 9.4 at page no. 12 & 13 of the assessment order. For making this addition also, the learned AO had referred to Annexure A9 and the statement of Shri Deepak Garg without confronting the appellant on the point and proceeded to make the addition straight away without allowing any opportunity to the appellant. This fact is evident from the body of the assessment order and from the assessment proceedings as well. In absence of proper opportunity, no valid addition can be made as discussed at length in ground no. 2(iii) above. Thus the addition so made deserves to be deleted summarily on this ground alone.

Further, while making this addition, the learned AO had also over-looked the fact that the so-called investment in chit fund (lottery) stood declared by Shri Deepak Garg in his own individual case in the re-assessment proceedings initiated u/s 148 of the Act. The copy of the computation sheets and balance sheets etc. for the relevant years are submitted herewith for your kind perusal and record. On perusal of these documents, it would be seen that such investment stood duly shown by Shri Deepak Garg in his case. As such no addition is called for on this account in the case of the appellant 'HUF'

Further, while making such addition, no charging section has been invoked. In absence of mentioning of any charging section of the Law, no valid addition can be made. Thus legally

also, the addition so made is bad in law and deserves to be deleted on such legal fiction as well.

8.3 I have perused the assessment order as well as submissions made by the appellant and find that an addition of Rs. 1,00,000 has been made by the AO account of unexplained income earned from the investment made in chit-funds. The addition was made on the basis of papers found in Annexure A9 and statement recorded in the course of survey.

8.4 The appellant has stated that no opportunity was given by the AO to the appellant for giving an explanation on this issue before making the addition. It is submitted that the additional income on this ground has already been declared in the individual income tax return of Sh. Deepak Garg and copies of the ITRs filed by him alongwith computation of income, cash flow statement, income and expenditure account and Balance Sheet for the relevant years has been filed.

8.5 Considering the submissions made and material available on record, I find that the amount of income from chits and investment made stands declared in the hands of Sh. Deepak Garg in his personal capacity and therefore do not find any justification in making the addition on this ground. Accordingly, I delete the addition of Rs. 1,00,000 made by the AO on this account.”

17. After hearing both the sides we hold that this investments has made by Shri Deepak Garg and has been disclosed in his personal investment. Therefore, CIT(A) has rightly deleted this addition. Therefore, we find no merit in this ground of revenue’s appeal.

18. Ground No.5 of the assessee’s appeal is general in nature and hence, requires no specific adjudication.

19. Ground No. 1 and 2 of the revenue's appeal are general in nature and also not pressed at the time of hearing. Therefore the same are dismissed.

In the result appeal of both sides are dismissed.

Order pronounced in the open court on 20/09/2017.

Sd/-

(कुल भारत)
(Kul Bharat)

न्यायिक सदस्य / Judicial Member

Sd/-

(भागचंद)
(BHAGCHAND)

लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 20/09/2017

*Ganesh Kr.

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- M.D. Garg & Sons, HUF, Alwar
2. प्रत्यर्थी / The Respondent- Asstt. Commissioner of IT, Circle-2, Alwar
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 42/JP/2015 & 70/JP/2015)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar