

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

श्री डी. करुणाकरा राव,लेखा सदस्य, एवं श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष
BEFORE SHRI D. KARUNAKARA RAO, AM AND SHRI VIKAS AWASTHY, JM

आयकर अपील सं. / ITA Nos.186 to 188/PUN/2014

निर्धारण वर्ष / Assessment Years: 2005-06 to 2007-08

Habibullah A. Choudhary,
S. No. 99, Plot No. 6,
Yashwant Nagar, Telco-
Bhosari Road, Pimpri,
Pune-411 018
PAN : AABPC1577B

.....अपीलार्थी / Appellant

बनाम / V/s.

The Deputy Commissioner of Income Tax,
Central Circle 2(3), Pune.

.....प्रत्यर्थी / Respondent

आयकर अपील सं. / ITA No.498/PUN/2014

निर्धारण वर्ष / Assessment Year : 2009-10

Habibullah Abbasali Choudhary,
S. No. 99, Plot No. 6,
Yashwant Nagar, Telco-
Bhosari Road, Pimpri,
Pune-411 018
PAN : AABPC1577B

.....अपीलार्थी / Appellant

बनाम / V/s.

The Assistant Commissioner of Income Tax,
Central Circle 2(3), Pune.

.....प्रत्यर्थी / Respondent

Assessee by : Shri S.N. Doshi

Revenue by : Shri Rajeev Kumar

सुनवाई की तारीख / Date of Hearing : 15.10.2018
घोषणा की तारीख / Date of Pronouncement : 17.10.2018

आदेश / ORDER

PER D. KARUNAKARA RAO, AM :

There are four appeals under consideration. ITA Nos.186 to 188/PUN/2014, these three appeals relate to the assessment years 2005-06 to 2007-08 and ITA No.498/PUN/2014 relates to the assessment year 2009-10. All these appeals are filed by same assessee against the orders of CIT(Appeals) in connection with the assessment made u/s.153A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. Briefly stated relevant back grounds facts include, assessee was covered by search action u/s.132 of the Act on 24.10.2007. In connection with the said search action, the cases of Habibullah Chaudhary, Chetan Mehta and Vishal Malhotra Group were covered on the said date. The search action resulted in unearthing of unaccounted income. In response to the notice issued u/s.153A of the Act, the assessee filed his return of income disclosing the additional income declared during the said search action. However, during the assessment proceedings, the Assessing Officer, against the return income of Rs.1,26,48,170/-, made various additions determining total income of Rs.3,72,10,313/-. Loan advanced to Shri Chetan Mehta along with the interest income accrued thereon was added for the assessment year 2005-06 and thus, Rs.1,55,00,000/-was added as unexplained investment u/s.69 of the Act on account of loan to Shri Chetan Mehta for the said assessment year. The accrued interest on the said loan worked out to Rs.52,50,000/-for assessment year 2005-06. The additions of

Rs.2,27,50,000/- and Rs.1,31,00,000/- were made on account of interest on loan given to Shri Chetan Mehta for the assessment years 2006-07 and 2007-08. These are the additions over and above the income disclosed by the assessee during search and seizure action. The details of the addition as summarized by the Ld. AR is tabulated and the same is extracted in Para 6 of this order.

3. **Grounds of appeal:** The CIT(Appeals) confirmed the above additions. Therefore, the assessee is in appeal for all the three assessment years before the Tribunal by raising following grounds:

“1. On the facts and in the circumstances of the case the CIT(A) has erred in making the additions of 1 cr. 55 lacs u/s. 69 on account of loan given to Mr. Chetan Mehta and the undisclosed income thereon Rs.52,50,000/- merely relying upon unilateral statements given by Shri. Chetan Mehta and without affording adequate opportunity to the appellant despite specific demand in writing made to that effect and rejecting the affidavit made by the appellant and his representative to the above effect.

2. On the facts and in the circumstances of the case the CIT (A) has erred in justifying the additions stated in Ground No.1 based on certain documents such as criminal case, civil suits, F.I.R. filed with the police authorities and the statements recorded by them unilaterally relying on those documents even without trying to ascertain the facts which are connected with these documents.

3. On the facts and in the circumstances of the case the CIT(A) has erred in not exercising his judicial power impartially in as much as he has heavily relied on those various documents supporting the addition stated in Ground No. 1 and rejecting the submission that Assessing Officer has recorded the statement of the said Mr.Chetan Mehta at the back of the appellant and without allowing the appellant to cross examine, despite specific request made to that effect rejecting the affidavit made by the appellant and his representative to the above effect.

4. On the facts and in the circumstances of the case and for the reasons stated in the above ground the order of the CIT (A) is perverse as the documents have been relied upon by the Assessing Officer only with the prejudice against the appellant.

5. On the facts and in the circumstances of the case the CIT (A) has further erred in holding that appellant is indulged in the business of money lending and again relying on statement recorded of various persons including Mr. Chetan Mehta at the back of the appellant and without allowing an opportunity of cross examining them in order to find out the truth and this supports appellant's contention that both the

Assessing Officer and CIT(A) have acted unilaterally and in the perverse manner.

6. On the facts and in the circumstances of the case the CIT(A) has erred in sustaining the addition of Rs.25 lacs u/s.69 on the ground that the appellant has loaned Rs.25 lacs to Shri Rajpal Panghal on the basis of a diary found at a place where the appellant does not stay or have any control and CIT(A) has relied on the statement of Shri. Rajpal Panghal recorded at the back of the appellant and without providing adequate opportunity to cross examines him.

The above grounds of appeal may kindly be allowed to be amended, altered, modified etc., in the interest of natural justice.”

4. **Summary of the Issues:** Further, summarizing the above grounds, Ld. Counsel for the assessee summarized the issues in the following manner and the same are extracted as follows:

“a) Additional Ground :

Validity of assessment order/additions made u/s.153A on the grounds that –

- a. Nothing incriminating was found and seized from the appellant.*
- b. Despite the documents, loose papers alleged to have been belonging to appellant and found with other assesses in the course of search action against them and absolute reliance on those documents, no satisfaction note has been prepared prior to taking up the assessment u/s.153A/153C.*
- b. Correctness of additions of Rs.1.55 Crore u/s.69 on the ground of alleged loan given to one Mr. Chetan Mehta.*

And

- c. The addition of Rs.52,50,000/- for interest on above loan being the undisclosed income. (Ground No. 1 to 4)*
- d. Correctness of addition of Rs.25 Lakhs u/s.69 on the ground of alleged loan given to Shri Rajpal Pangal. (Ground No. 5).*

5. **Additional evidence- Preliminary issue:** At the outset, Ld. Counsel for the assessee brought our attention to the assessee’s letter dated Nil and prayed for admitting the **additional evidences**. In this regard, assessee made following submissions:

“The Appellant prays that he may be permitted to file the additional evidence which is in the form of an order passed by 16th First Class Magistrate Pune on the criminal case No.0402733/2007 dated 09th September 2016.

In all the appeals mentioned above the Assessing Officer has strongly relied on the criminal case filed by Mr. Chetan Mehta alleging the carrying on the money lending activity in contravention of section 32 of The Bombay Money Lenders Act 1946 as well as on other grounds under Indian Penal Code 1860.

Relying on this criminal case/F.I.R. and the statements recorded of Mr.Chetan Mehta the huge additions have been made in the Assessment Orders referred to above.

The above criminal case has been disposed off by the court on 09-09-2016 and the Hon'ble Court has acquitted the appellant from all the charges leveled against him. Court further held that Mr.Chetan Mehta (complainant) has grossly failed to prove any of the charges including the charge of violation of Money Lending Act.

This order of the court clearly supports appellant's consistent plea that he has not lent any money to Mr.Chetan Mehta or any other person.

The appellant believes that this order of the Court is the concrete evidence to delete all the additions made by the Assessing Officer in the orders of the Assessment Years 2005-06, 2006-07 and 2007-08.

Thus, additional evidence goes to the root of the issue involved in these appeals and therefore, appellant prays that this additional evidence may be kindly admitted and adjudicated on merit.”

6. **Ld. Counsel's prayer for admitting additional evidence:** Further, on subsequent date of hearing, Ld. Counsel for the assessee raised following additional prayer for admitting the additional evidences:

“The appellant has filed the additional evidence which is in the form of an order passed by the Sixteenth First Class Magistrate, Pune on the Regular Criminal Complaint Application No. 2733/07. Mr. Chetan Mehta had filed this criminal complaint against the appellant and others alleging the violations of section 386, 120(b), 506(2) of Rule 33 of IPC and section 32 & 33 of Bombay Money Lending Act.

The search action u/s. 132 was conducted on the appellant on 24/10/2007. Simultaneously searches were conducted on Mr. Chetan Mehta, Mr. Abbas Ali Choudhary and others.

In the course of search on the appellant absolutely nothing' has been found and there is no seizure either of any loose papers or cash, jewellery etc. Whereas in the course of search in case of Mr.Chetan Mehta several documents were found in his possession and custody which are seized by the department. The search also revealed that Mr. Chetan Mehta has filed a criminal complaint against the appellant for the violation of various sections of IPC and Bombay Money Lending Act. The police department has also

provided the copies of FIR and the statements recorded at the time of registering the complaint.

In the course of assessment proceedings of the appellant the Assessing Officer exclusively relied on these documents FIR i.e. Criminal Complaint etc and made the additions in the A.Y. 2005-06, 2006-07 and 2007-08.

In due course on 09/09/2016 the above referred criminal complaint has been adjudicated and the appellant has been acquitted from all the charges leveled against him. The Hon'ble Magistrate held that complainant and other witnesses and the prosecution could not prove that the accused are involved in any of the crimes particularly the allegation that the accused had taken 4 times the amount from the complainant nor could the prosecution prove any criminal conspiracy of illegal money lending. Thus, the Hon'ble Magistrate adjudicated the issue on merits and acquitted the appellant.

Admission of additional evidence :

It is this additional evidence the appellant prays be admitted as the same could not have been produced before the Assessing Officer for the obvious reason that the said complaint has been disposed of by the court lately on 09/09/2016. This fact clearly proves inability on the part of the appellant to produce this evidence before the Assessing Officer and CIT(A) as well.

This additional evidence goes to the root of the issue and has the direct impact on allowability of sustaining the various additions made by the Assessing Officer in A.Y. 2005-06, 2006-07 & 2007-08. The details of these additions are as under:-

<i>Assessment Year</i>	<i>Nature of additions</i>	<i>Amount</i>
<i>2005-06</i>	<i>I) Loan advanced to Mr. Mehta II) Interest on above loan</i>	<i>Rs.1.55 Crores Rs.52.50 Lakhs</i>
<i>2006-07</i>	<i>I) Interest on above loan</i>	<i>Rs.2,27,50,000/-</i>
<i>2007-08</i>	<i>I) Interest on above loan</i>	<i>Rs.1,31,00,000/-</i>

The admission of this additional evidence is also necessary because those documents and Criminal Complaint FIR were exclusively relied on by the Assessing Officer and the CIT(A) in making and sustaining these additions.

The Hon'ble Magistrate having discharged the appellant, it may be appreciated that the above additions based on this criminal complaint deserve to be deleted. The appellant therefore most respectfully prays that this additional evidence may be admitted and issue of sustainability of addition be decided.

*Kind attention is drawn to **Rule 29 of the Appellate Tribunal Rules, 1963** that provides admission of additional evidence under certain circumstances and therefore the appellant believes that the relevant circumstances stand proved by the facts explained above. This admission of additional evidence is also necessary in the interest of natural justice."*

We shall now take up each of the said issues summarized in the following paragraphs for adjudication.

A. Validity of assessment /additions – incriminating material :

The first issue relates to validity of assessment/additions made u/s. 153A of the Act where no incriminating material was found and seized. Ld. Counsel also submitted that loose papers/documents relied upon by the Assessing Officer are found during search do not belong to the assessee. In this regard, Ld. Counsel for the assessee submitted that the basic documents, which suggest the payment of loan to Mr. Chetan Mehta outside the books, were not found in the premises of the assessee although the same were discovered from his premises during search action on the group of cases involving assessee, Mr. Chetan Mehta and Mr. Abbas Ali Choudhary. In this regard, Ld. Counsel also submitted that the said document do not belong to the assessee. Considering the legal nature of the above issue, raised in the additional ground, we admit the additional ground as it does not call for investigation on the facts and proceed to adjudicate the same after hearing both the parties.

7. On the other hand, Ld. DR for the Revenue placed reliance on the orders of Assessing Officer and CIT(A). Ld. DR vehemently argued stating that the unaccounted transactions involving the assessee are very much evident on the said documents seized from Shri Mehta. Hence, the addition is justified.

8. On hearing both the parties, we find, it is case where incriminating documents do exist involving the unaccounted payment of loan to Mr. Chetan Mehta. It is fact that the said documents/material were not

discovered or seized from the premises of the assessee. In our view, the very facts of the said documents constitute incriminating evidence and both, assessee and Shri Mehta are searched u/s.132 of the Act, the additional grounds raised by the assessee needs to be dismissed. There was search and seizure action on all these assessee on the same day and therefore, the incriminating information gathered in the said premises of Shri Mehta is rightly used by the Assessing Officer in making assessment. Absence of any incriminating evidence seized from the premises of the assessee, does not alter the incriminating nature of the said documents. Accordingly, the question of document not belonging to the transaction of the assessee does not arise. Considering the admitted position of the nature of incrimination, we are of the opinion that the assessment made based on the documents relied by the Assessing Officer constitutes a validity of assessment. Therefore, **additional ground No.(a) raised in appeal by assessee stands dismissed.**

B. Merits of addition u/s.69 of the Act :

The issue raised in grounds Nos.(b), (c) & (d) of the additional /summarized grounds relates to the addition made u/s.69 of the Act (Rs.1.55 Crores + Rs.52.5 Lakhs + Rs.25 Lakhs). On the merits of the additions, at the outset, Ld. Counsel for the assessee filed additional evidence and submitted above extracted prayer for admission of the said additional evidence. Further, he filed the brief note giving backgrounds facts of the addition and the same are extracted as under:

“This additional evidence is in form of an order passed by the judicial magistrate 1st class, Pune on the criminal complaint No 2733 of 2007 filed by complainant Shri Chetan Mehta. In the said complaint charges were leveled against the appellant and others alleging violations of provisions of sections 386,12(b), 506(2) of the Indian Penal Code and u/s. 32 & 33 of the Bombay Money Lending Act.

The Hon'ble Court disposed off this criminal complaint vide its order dated 9th Sept 2016. The Court acquitted the appellant and others from all the charges leveled by the complainant.

Refer Pg No 4 Para no 8 of the order mentioning therein the charges leveled and the decision taken:-

<i>Sr. No.</i>	<i>Issues/Charges</i>	<i>Conclusion</i>
1.	<i>Can prosecution proved that accused No.1 to 4 had demanded ransom money from complainant making motive of criminal conspiracy of crime between them?</i>	<i>Negative</i>
2.	<i>Can Prosecution proved that accused No I, 3 and 4 had taken signature on consent letter and two agreement of complaint on dated 3/05/2006 in the morning 11.30 to 12.00 noon at complainant factory of MIDC Pimpri in the motive of ransom money demand from complainant threatening with revolver?</i>	<i>Negative</i>
3.	<i>Can Prosecution proved that accused No I had taken signature on consent agreement of complainant on dated 6/05/2007 at Mantri Lawns, Annand Park, Aundh, Pune nad in the May 2006 st factory of H-Block MIDC complainant making conspiracy and putting Gun to the complainant's ear?</i>	<i>Negative</i>
4.	<i>Can Prosecution proved that as money lender accused No 1 had taken signature on consent letter and two agreements of complainant & his family members on 3/05/2006 in the morning 11.30 to 12.00 noon and criminal conspiracy with other accused to put revolver on the ear of the complainant</i>	<i>Negative</i>
5.	<i>Can Prosecution have proved that all accused making criminal conspiracy in the motive of demanding forcefully ransom money from Chetan Mehta & his family to showing he is borrower?</i>	<i>Negative</i>
6.	<i>What is order?</i>	<i>Through the final decision accused are free from crime.</i>

Prior to disposal of this criminal complaint the complainant and the accused appellant and others had filed a pursis dated 17/05/2016 to compromise the offence (Copy furnished here with).

Submitted that, reading the pursis as well as the order passed by the Hon'ble Court it is evident that the Hon'ble Court has passed the order on examination of witnesses, evidences filed and so on. Despite the fact that pursis for

compromise was filed, the Hon'ble Court has however independently examined the issue of the sustainability of the charges leveled and held that the prosecution has failed to prove any of the charges leveled against the appellant accused and others.

The Assessing Officer while making additions in all these 3 Assessment years exclusively relied on this FIR/complaint filed, statements made by Mr Chetan Mehta, his wife Mrs. Monica Mehta and others. It is therefore submitted that all those additions made by the Assessing Officer based on these documents should stand cancelled/deleted.

*In other words this **order of the Hon'ble Magistrate has direct** impact on the following additions made by the Assessing Officer.”*

9. Referring to the order passed by the 1st Class Magistrate dated 09.09.2016, Ld. Counsel for the assessee submitted that the judgment was delivered in the context of loan given by assessee to Mr. Chetan Mehta stating that the said judgment consisted with certain documentary evidence which was not available at the relevant point of time when the assessment orders were made by the Assessing Officer or the CIT(A). The Ld. Counsel further filed written submissions in details which have already been extracted in the preceding paragraph in line for adjudication of the issue on quantum. It is the prayer of the Ld. Counsel for the assessee that the same needs to be admitted and matter may be referred to the file of Assessing Officer for fresh adjudication after granting reasonable opportunity of being heard to the assessee.

10. The Ld. DR for the Revenue strongly and dutifully opposed regarding admission of the order of 1st Class Magistrate as additional evidence. In our considered opinion before adjudication of the merits of the addition, we need to attend to the fate of the additional evidence furnished for the first time before us.

C. **Preliminary issue :-**

On hearing both the parties on this preliminary issue, we find the order of 1st Class Magistrate is relevant for the impugned additions made u/s.69 of the Act. The said order was delivered in the month of September, 2009 in connection with the registration of appeal in 2007 before the 1st Class Magistrate. Further, we find that CIT(A) passed the impugned order in the month of December, 2013 regarding assessment order being dated 31.12.2009 which was much earlier to the date of order of 1st Class Magistrate. On going through the said relevant facts, we are of the opinion that this particular order of 1st Class Magistrate though relevant, did not exist at the relevant point of time. It is the firm argument of the Ld. Counsel for the assessee that the said order goes to the root of the matter relating to the addition made u/s.69 of the Act. On perusal of the same, we are of the opinion that this order is not only relevant for adjudication of the issue on hand but also has effect considering the set principle of natural justice and the matter should be remanded to the file of Assessing Officer for considering the said order. The Assessing Officer is directed to grant reasonable opportunity of being heard to the assessee in accordance with set principle of natural justice and pass a speaking order after considering the same. Accordingly, the issue raised on merits in the assessment years 2005-06, 2006-07 and 2007-08 in the appeals ITA No.186 to 188/PUN/2014 are allowed for statistical purpose.

11. In the result, appeals of the assessee for assessment years 2005-06 to 2007-08 are partly allowed for statistical purpose.

ITA No.498/PUN/2014
A.Y.2009-10

12. In ITA No.498/PUN/2014, assessee has raised following grounds:

“1. On the facts and in the circumstances of the case, the CIT(A) has erred in not deleting the entire addition of Rs.6,49,662/- by partly allowing the adjustment of VAT receivable Rs.2,84,403/- to the opening stock and disregarding the fact that the said amount of VAT receivable got increased by the amount of VAT paid and included in the purchases made during the year resulting into Rs.6,49,662/- at the end of the year.

The above grounds of appeal may kindly be allowed to be amended, altered, modified etc. in the interest of natural justice.”

13. Briefly stated relevant facts include, the assessee is an individual and engaged in the business of trading in iron scrap and sheet cuttings. The assessee filed return of income declaring total income at Rs.66,06,100/-. At the end of the assessment proceedings u/s.143(3) of the Act, the Assessing Officer determined the total income of assessee at Rs.76,34,470/- and made addition of Rs.6,49,662/- on account of closing stock valuation method & reliability of treatment of VAT and adjustment of inventories. In this regard, the said addition was partly confirmed by the CIT(A) in his order dated 10.01.2014. The contents of para 6 of the appellate order are relevant in this regard.

14. Aggrieved by the order of partial relief by the CIT(A), the assessee is in appeal before us by raising grounds as extracted above.

15. Before us, Ld. Counsel for the assessee brought our attention to page 3 and 4 of the paper book and made following submissions:

“1. The AO has erred in invoking the provision of Sec.145A. The reasons are –

i. Books of accounts are maintained under mercantile system of accounting. The purchases and sales are shown net of VAT in trading account. The VAT account is separately maintained to which VAT paid is debited and VAT collected is credited. As on 31.3.2009 VAT Account shows Rs.6,49,662/- as receivable/adjustable to the subsequent transactions and VAT payable.

ii. Where the assessee collects the VAT on sales more than what is paid on purchases at the end of the year it is shown as liability. As per the provisions relating to the VAT, this liability is not to be adjusted to VAT receivable or refund.

2. Since earlier years the stock is consistently valued without taking into consideration the VAT paid or VAT collected and the method has been accepted. Therefore deviation in the method adopted is not permissible.

3. The date-wise and quantity-wise stock register was maintained and produced before AO. No defect was detected. The stock is valued as per the average cost or market price whichever is less. These quantitative details are disclosed in tax audit report.

4. Even going by the version of AO the opening VAT prepaid was Rs.2,84,404/-. Adding and deducting the VAT paid on the purchases and VAT collected on the sales effected during the FY 2008-09 the VAT account shows the debit balance /receivable at Rs.6,49,662/- .This will have to be added to the purchases debited to the P & L account and in which case there will not be any effect to the gross profit. Enclosed VAT account extract at page No3 Therefore no addition is warranted.”

The Ld. Counsel for the assessee also relied on various decisions to support his case on requirement of making adjustment of VAT to all the inventories. Further, bringing our attention to the contents of Page 4 of the paper book, Ld. Counsel for the assessee demonstrated that all the purchases accounts of all inventories were adjusted. This explanation of adjustment of the purchases accounts qua the VAT is not in tune with the binding of judgments as discussed by CIT(A) in para 6.9 of this order and Ld. Counsel submitted that the same does not constitute a speaking order.

16. The Ld. DR for the Revenue placed reliance on the orders of Assessing Officer and the CIT(A).

17. On hearing both the parties on the issue of requirement of adjusting all the inventories qua VAT in particular, we find the order of CIT(A) does not mention the requisite reasons for not adjusting all the inventories particularly the inventories of purchases account. In this regard, we peruse the contents of para 6.9 of the appellate order and the same are reproduced as under:

“6.9The express provision of the section call for an adjustment of the valuation of inventory as per the method of accounting regularly employed by the assessee in order to include the amount of any tax, duty, cess or fee. VAT, being a tax, clearly fell into this category and, therefore, the value of closing stock was to be adjusted for the said amount. The appellant has relied on case laws all of which relate to ATs prior to 1999-2000 i.e. before S.145 A come into being. As such, the same have to no application to the facts of the present case. Accordingly, this contention of the appellant is hereby rejected. The alternate contention of the appellant is that if the closing stock is adjusted for VAT, the opening stock should also similarly be adjusted. This contention of the appellant is acceptable in view of the decisions in CIT Vs. Mahavir Aluminium Ltd.(2008) 297 ITR 77 (Del.) and CIT Vs. Ahmadabad New Cotton Mills Ltd. AIR 1930 PC 56 et al. Accordingly, this ground of appeal is partly allowed with a directed to the AO to adjust the amount of opening stock also for VAT after giving the appellant an opportunity to present the requisite details and documents in this regard.”

From the above, it is evident, although the CIT(A) rejected the contention of the assessee that adjustment of the valuation of inventory as per the method of accounting regularly employed by the assessee in order to include the amount of any tax, duty, cess or fee, VAT, being a tax, clearly fell into this category and, therefore, the value of closing stock was to be adjusted for the said amount but he felt to allow the requirement of adjustment of purchases account as made out by the Ld. Counsel before us. It is a settled legal proposition as held in the judgment of Hon'ble Delhi High Court in the case of CIT Vs. Mahavir Aluminium Ltd. reported as 297 ITR 77 (Del.) that

all the inventories requires to be adjusted either from inclusive point of view or exclusive point of view, as the case may be.

18. Considering the facts that the chart given by the Ld. Counsel in page 4 of the paper book indicates requirement of adjustment to all the inventories including all the purchases account, we are of the opinion that this issue should be remanded to the file of Assessing Officer for verification of figures and providing necessary adjustment of purchases account also, on purview of the inventories. While allowing the ground raised by the assessee, in principle, for the purpose of verification of the figure and the facts, the matter stands remanded to the file of Assessing Officer for want of speaking order on this issue. The Assessing Officer shall grant reasonable opportunity of being heard to the assessee in accordance with set principles of natural justice. Accordingly, ground raised by assessee is allowed for statistical purposes.

19. In the result, appeal of the assessee for assessment year 2009-10 is partly allowed for statistical purposes.

20. To sum up, all the four appeals of the assessee for A.Ys.2005-06 to 2007-08 and A.Y.2009-10 are partly allowed for statistical purposes.

Order pronounced on 17th day of October, 2018.

Sd/-
(विकास अवस्थी /VIKAS AWASTHY)
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-
(डी. करुणाकरा राव/D. KARUNAKARA RAO)
लेखा सदस्य/ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 17th October, 2018.

SB

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT (Appeals), Central, Pune.
4. The CIT, Central, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

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आदेशानुसार / BY ORDER,

निजी सचिव /Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.