

आयकर अपीलीय अधिकरण पुणे न्यायपीठ एक-सदस्य मामला पुणे में

**IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "SMC", PUNE**

सुश्री सुषमा चावला, न्यायिक सदस्य के समक्ष  
BEFORE MS. SUSHMA CHOWLA, JM

**आयकर अपील सं. / ITA No.823/PUN/2018**  
**निर्धारण वर्ष / Assessment Year : 2014-15**

M/s. Juice World Snacks Bar  
2436, East Street, Camp,  
Pune – 411001

.... अपीलार्थी/Appellant

PAN: AAFFJ5155L

Vs.

The Income Tax Officer,  
Ward 7(1), Pune

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by

: Shri S.N. Puranik

प्रत्यर्थी की ओर से / Respondent by

: Shri Rajesh Gawali

सुनवाई की तारीख / Date of Hearing : 14.01.2019	घोषणा की तारीख / Date of Pronouncement: 25.01.2019
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**आदेश / ORDER**

**PER SUSHMA CHOWLA, JM:**

The appeal filed by assessee is against the order of CIT(A), Pune-5, Pune, dated 15.01.2018 relating to assessment year 2014-15 against order passed under section 143(3) of the Income-tax Act, 1961 (in short 'the Act').

2. The assessee during the course of hearing has raised an additional ground of appeal, which reads as under:-

1. *Commissioner (Appeals) has not discussed and decided Appeal on merits. Appellant therefore prays for setting aside the matter to Commissioner (Appeals) for deciding on merits.*
3. The additional ground of appeal raised by assessee is on legal aspect and is admitted for adjudication.
4. The assessee is aggrieved by the order of CIT(A) in dismissing the appeal of assessee in *limine* by applying the ratio laid down by the Delhi Bench of Tribunal in CIT Vs. M/s. Multiplan India Pvt. Ltd. (1991) 38 ITD 320 (Del) and the Hon'ble Supreme Court in CIT Vs. B.N. Bhattacharjee & Anr. (1979) 10 CTR 354 : (1979) 118 ITR 461 (SC) and not deciding the issue on merits.
5. I find merit in the plea raised by the assessee by way of additional ground of appeal. On perusal of order of CIT(A), it is apparent that the appeal of assessee was dismissed for non appearance but the CIT(A) has failed to discuss the issue on merits and has dismissed the appeal in *limine* applying the ratio laid down in CIT Vs. M/s. Multiplan India Pvt. Ltd. (supra) and CIT Vs. B.N. Bhattacharjee & Anr. (supra).
6. Under the provisions of the Act, it is incumbent upon the CIT(A) to address the issue raised and in the absence of the same, order of CIT(A) suffers from infirmity. Accordingly, I set aside the order of CIT(A) and remit the issue back to the file of CIT(A), who shall decide the issue raised on merits after affording reasonable opportunity of hearing. The assessee is also directed to appear before the CIT(A) and furnish the requisite details and evidences, if any. The issue is not being addressed on merits as the matter is

being set aside to the file of CIT(A). The additional ground of appeal raised by assessee is thus, allowed for statistical purposes.

7. In the result, appeal of assessee is allowed for statistical purposes.

Order pronounced on this 25<sup>th</sup> day of January, 2019.

**Sd/-**  
**(SUSHMA CHOWLA)**

न्यायिक सदस्य / **JUDICIAL MEMBER**

पुणे / Pune; दिनांक Dated : 25<sup>th</sup> January, 2019.

*GCVSR*

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT(A), Pune-5, Pune;
4. The Pr.CIT-4, Pune;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे, एक-सदस्य  
मामला / DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

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