

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.2577 & 2578/PUN/2016
निर्धारण वर्ष / Assessment Years : 2009-10 & 2012-13

PYC Hindu Gymkhana,
766, Bhandarkar Road,
Shivajinagar, Pune – 411004

PAN : AAATP1121F

.....अपीलार्थी / Appellant

बनाम / V/s.

The Asst. Commissioner of Income Tax,
(Exemptions) Circle, Pune

.....प्रत्यर्थी / Respondent

आयकर अपील सं. / ITA No.2822/PUN/2016
निर्धारण वर्ष / Assessment Year : 2012-13

The Dy. Commissioner of Income Tax,
(Exemptions) Circle, Pune

.....अपीलार्थी / Appellant

बनाम / V/s.

PYC Hindu Gymkhana,
Vinchekar Pavalion,
Deccan Gymkhana,
Shivajinagar, Pune – 411004

PAN : AAATP1121F

.....प्रत्यर्थी / Respondent

Assessee by : Shri C.H. Naniwadekar
Revenue by : Shri Abhishek Meshram

सुनवाई की तारीख / Date of Hearing : 19-09-2019

घोषणा की तारीख / Date of Pronouncement : 24-09-2019

आदेश / ORDER**PER S.S. VISWANETHRA RAVI, JM :**

These three appeals by the assessee and Revenue against the separate orders dated 31-08-2016 and 04-10-2016 passed by the Commissioner of Income Tax (Appeals)-10, Pune [‘CIT(A)’] for assessment years 2009-10 and 2012-13, respectively.

2. We find that the issues raised in all these appeals are similar, based same identical facts. Upon hearing both the parties, we proceed to hear these appeals together and to pass a consolidated order for the sake of convenience.

First we shall take up ITA No. 2577/PUN/2016 by assessee.

ITA No. 2577/PUN/2016, (A.Y. 2009-10)

3. At the outset the ld. AR, Shri C.H. Naniwadekar submits that the assessee is not interested to prosecute the validity of reopening assessment raised in ground No. 1 and prayed to dismiss as not pressed. Accordingly, the same is dismissed as not pressed.

4. Further, the issues raised in ground Nos. 2 to 6 are identical to the grounds raised and decided by this Tribunal vide its order dated 23-07-2018 in ITA No. 179/PUN/2015 for A.Y. 2010-11 wherein this Tribunal remanded the issue raised in such grounds to the file of Assessing Officer for fresh consideration referred to para 17 in the said order. He prayed to remand the issue raised in ground Nos. 1 to 6 to the file of Assessing Officer in terms of observations by this Tribunal for assessment year 2010-11.

5. The ld. DR, Shri Abhishek Meshram reported no objections in remanding the matter to the file of Assessing Officer.

6. Heard both parties and perused the materials available on record. We find that as rightly pointed by the ld. AR, Shri C.H. Naniwadekar the issues raised in the present appeal are similar to the grounds raised in ITA No. 179/PUN/2015 for assessment year 2010-11 wherein Co-ordinate Bench of this Tribunal taking into consideration the facts and circumstances of the case therein remanded the matter to the file of Assessing Officer in terms of observations detailed in para 17 of such order. Therefore, taking into consideration the submissions of ld. AR and ld. DR, we deem it proper to remand the matter to the file of Assessing Officer for fresh consideration to decide the issue raised in ground No. 1 to 6 in terms of observations made by this Tribunal vide its order dated 23-07-2018 in assessee's own case for assessment year 2010-11. Thus, ground Nos. 2 to 6 allowed for statistical purpose.

7. It is brought to our notice that the assessee raised additional grounds in appeal in ITA No. 179/PUN/2015 for assessment year 2010-11 wherein the said additional ground has not been adjudicated by this Tribunal. For non-adjudication of said additional grounds, the assessee preferred Miscellaneous Application before this Tribunal in MA No. 94/PUN/2018 and the order was recalled to that extent, this Tribunal remanded the additional grounds to the file of Assessing Officer since the main issues are also been remanded to the file of Assessing Officer for its fresh consideration vide order dated 06-09-2019. The ld. DR did not controvert the same. Therefore, taking into consideration the facts and circumstances of the case, we deem it proper to remand the additional grounds raised in this appeal to the file of Assessing Officer for its fresh

consideration. Thus, additional grounds raised by the assessee are allowed for statistical purpose.

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

ITA No. 2578/PUN/2016, (A.Y. 2012-13) – Assessee’s Appeal

9. The facts being similar to assessment year 2009-10, the findings given by us while adjudicating the appeal of assessee in assessment year 2009-10 on the issues in hand, will apply *mutatis mutandis* to the assessment year under appeal. Accordingly, the grounds raised by the assessee are partly allowed for statistical purpose.

10. In the result, the appeal of assessee for assessment year 2012-13 is partly allowed for statistical purpose.

ITA No. 2822/PUN/2016, (A.Y. 2012-13) – Revenue’s Appeal

11. It is brought to our notice that the grounds raised in this appeal relating to principle of mutuality involving entrance fees and membership fees are identical to the additional grounds raised by assessee in appeal in ITA No. 179/PUN/2015 for assessment year 2010-11. In the aforementioned paras, we have decided to remand additional grounds raised by the assessee to the file of Assessing Officer since the main issues are also been remanded to the file of Assessing Officer for its fresh consideration. The ld. DR did not controvert the same. Therefore, taking into consideration the facts and circumstances of the case, we deem it proper to remand the grounds raised in this appeal to the file of Assessing Officer for its fresh consideration. Thus, grounds raised by Revenue are allowed for statistical purpose.

12. In the result, the appeal of Revenue for assessment year 2012-13 is allowed for statistical purpose.

13. To sum up, both the appeals of assessee are partly allowed for statistical purpose and the appeal by Revenue is allowed for statistical purpose.

Order pronounced in the open court on 24th September, 2019.

Sd/-
(R.S. Syal)
VICE PRESIDENT

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 24th September, 2019

RK

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-10, Pune
4. The Commissioner of Income Tax (Exemption), Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

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