

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

BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.1431 & 1432/PUN/2017  
निर्धारण वर्ष / Assessment Years : 2007-08 & 2008-09

M/s. P.N.G. Jewellery & Gems,  
693, Narayan Peth, Kunte Chowk,  
Laxmi Road, Pune – 411030

PAN : AADFP5196K

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Deputy Commissioner of Income Tax,  
Central Circle – 1(2), Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri M.R. Bhagwat  
Revenue by : Ms. Nandita Kanchan

सुनवाई की तारीख / Date of Hearing : 25-09-2019

घोषणा की तारीख / Date of Pronouncement : 17-10-2019

**आदेश / ORDER**

**PER S.S. VISWANETHRA RAVI, JM :**

Both these appeals filed by the assessee against the common order dated 29-03-2017 passed by the Commissioner of Income Tax (Appeals)-11, Pune for assessment years 2007-08 and 2008-09, respectively.

**ITA No. 1432/PUN/2017, (A.Y. 2008-09)**

2. Shri M.R. Bhagwat, the ld. AR submits that the assessee is not interested to prosecute the grounds raised in appeal in ITA No. 1432/PUN/2017 for A.Y. 2008-09 and prayed to accord permission to withdraw the same. Accordingly, the assessee is permitted to withdraw the appeal in ITA No. 1432/PUN/2017 for A.Y. 2008-09 and the same is dismissed as withdrawn.

3. In the result, the appeal of assessee is dismissed as withdrawn.

**ITA No. 1431/PUN/2017, A.Y. 2007-08**

4. Now, we shall take up the appeal in ITA No. 1431/PUN/2017 for A.Y. 2007-08 filed by the assessee. The ld. AR, Shri M.R. Bhagwat submits that the assessee is not interested to prosecute the validity of reopening of assessment raised in ground No. 1 and prayed to dismiss the same as not pressed. Accordingly, ground No. 1 is dismissed as not pressed.

5. Regarding the other issues raised in ground Nos. 2 to 4 of the appeal, it is noted that the assessee filed return of income for the A.Y. 2006-07 on 23-10-2007 declaring total income of Rs.6,71,38,401/-. The Assessing Officer completed assessment by determining loss of Rs.44,52,858/- by allowing set off of additions made in A.Y. 2006-07. In First Appellate Proceedings, the said additions were deleted and the CIT(A) proposed enhancement of income in the year under consideration i.e. A.Y. 2007-08. The assessee reported no objection for enhancement subject to a situation where the order of CIT(A) for A.Y. 2006-07 should not be reversed.

6. Before us, Ms. Nandita Kanchan placed on record a letter dated 24-09-2019 issued by the office of DCIT, Circle-12, Pune stating that the respondent-Revenue has accepted the order of CIT(A)-11 in deleting the additions for A.Y. 2006-07 and no further appeal recommended, so therefore, it is clear that the situation as anticipated by the assessee that the order of CIT(A) may be reversed in further Appellate Proceedings does not arise at all. Therefore, as rightly held by the CIT(A) in the order for A.Y. 2007-08 which is impugned before us that when the additions were deleted involving set off, the enhancement is to be made in the subsequent year i.e. year under consideration. Therefore, we find no infirmity in his order in directing the Assessing Officer to enhance the total income of assessee by Rs.7,22,57,618/- for the year under consideration. It is only a concern of Shri M.R. Bhagwat, the ld. AR that there should not be double taxation for A.Ys. 2006-07 and 2007-08 and prayed to issue appropriate directions to the Assessing Officer to give appeal effect for A.Ys. 2006-07 and 2007-08, simultaneously. We find force in the arguments of Shri M.R. Bhagwat, the ld. AR, taking into consideration the facts and circumstances of the case as discussed here-in-above, we find no infirmity in the order of CIT(A) and we are in an agreement with the reasons recorded by the CIT(A) in paras 31 and 33 of the impugned order and they are justified. Therefore, we deem it proper to remand the matter to the file of Assessing Officer for his fresh consideration in terms of observations made by the CIT(A) in paras 31 and 33. It is needless to say the Assessing Officer shall afford reasonable opportunity of hearing to the assessee and pass order as indicated above. Thus, ground Nos. 2 to 4 are allowed for statistical purposes.

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

8. To sum up, the appeal in ITA No. 1431/PUN/2017 is partly allowed for statistical purposes and ITA No. 1432/PUN/2017 is dismissed as withdrawn.

Order pronounced in the open court on 17<sup>th</sup> October, 2019.

Sd/-  
(Anil Chaturvedi)  
ACCOUNTANT MEMBER

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

पुणे / Pune; दिनांक / Dated : 17<sup>th</sup> October, 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)-11, Pune
4. The Pr. Commissioner of Income Tax (Central), 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