



॥ आयकर अपीलीय न्यायाधिकरण, पणजी न्यायपीठ, पणजीमें ॥



IN THE INCOME TAX APPELLATE TRIBUNAL, PANAJI BENCH, PANAJI BEFORE HON'BLE SHRI S. S.GODARA, JUDICIAL MEMBER AND SHRI G. D. PADMAHALI, ACCOUNTANT MEMBER

(Through Virtual Hearing from Pune)

Sr	ITA No(s).	Appellant	Respondent	Asst. Yr.
1	59/PAN/2020	Good Luck Developers, Ahmad Mansion, Ambaji, Fatorda, Goa – 403602. PAN: AAFFG2839J	The Income Tax Officer, Ward-2, Margao.	2006-07
2	46/PAN/2020	Surendra Ramnath Nayak, No.820/5, Chatrapathi Road, Tilakwadi Belgaum, Karnataka – 590006. PAN: AFFPN9639K	The Income Tax Officer, Ward-1(2), Panaji-Goa.	2013-14
3	48/PAN/2020	Swati Vivek Kerkar, Mangurism, Khorlim, Mapusa, Goa – 403507. PAN: AESPK5683F	Asst. Commissioner of Income Tax, Circle-2(1), Panaji – Goa.	2011-12
4	49/PAN/2020	M/s. Agencia Commercial International, 19, Garden Center, Phase II, Mapusa, Bardez Goa – 403507. PAN: AAPFA0708E	The Income Tax Officer, Ward-2(4), Panaji-Goa.	2013-14
5	53/PAN/2020	Mr. Joseph R. Fernandes, H.No.797/6, Mandopa Navelim, Salcete, Goa – 403707. PAN: AAHPF1154B	ACIT, Circle-1, Magoa.	2007-08
6	56/PAN/2020	Mr. John Fernandes, Prop. M/s. Boatcraft Ap-1, Reliance Park, Near Rice Bowl Restaurant, Colva, Margao, Goa – 403708. PAN: AAEPF6148C	ACIT, Circle-1, Margao.	2008-09



7	57/PAN/2020	Mr. John Fernandes, Prop.M/8s.Boatcraft, Ap-1, Reliance Park, Near Rice Bowl Restaurant, Colva, Margoa, Goa – 403708. PAN: AAEPF6148C	ACIT, Circle-1,Margoa.	2009-10
8	58/PAN/2020	Mr. John Fernandes, Prop.M/8s.Boatcraft, Ap-1, Reliance Park, Near Rice Bowl Restaurant, Colva, Margoa, Goa – 403708. PAN: AAEPF6148C	ACIT, Circle-1,Margoa.	2010-11
9	61/PAN/2020	N.S.Narvekar Minerals, Bombi Niwas, Margoa, Goa – 403601. PAN: AAEFN1223C	The ACIT, Circle-1, Margao.	2015-16
10	31/PAN/2023	The Gokul Urban Co-op Credit Society Limited, Ground Floor, Shalini Apartment,Opp.Market Yard Nirancal Road, Ponda – Goa – 403401. PAN: AADFT0211H	The ACIT, Circle-1(1), Panaji.	2013-14
11	32/PAN/2023	The Gokul Urban Co-op Credit Society Limited, Ground Floor, Shalini Apartment,Opp.Market Yard Nirancal Road, Ponda – Goa – 403401. PAN: AADFT0211H	The ACIT, Circle-1(1), Panaji.	2014-15
12	33/PAN/2023	The Gokul Urban Co-op Credit Society Limited, Ground Floor, Shalini Apartment,Opp.Market Yard Nirancal Road, Ponda – Goa – 403401. PAN: AADFT0211H	The ITO, Ward-2(5), Panaji.	2016-17



13	34/PAN/2023	The Gokul Urban Co-op Credit Society Limited, Ground Floor, Shalini Apartment, Opp. Market Yard Nirancal Road, Ponda – Goa – 403401. PAN: AADFT0211H	The DCIT, Circle-2(1), Panaji.	2017-18
14	35/PAN/2023	The Gokul Urban Co-op Credit Society Limited, Ground Floor, Shalini Apartment, Opp. Market Yard Nirancal Road, Ponda, Goa-01 PAN: AADFT0211H	The DCIT, Circle-1(1), Panaji.	2018-19
15	36/PAN/2020	Chowgule & Company Pvt. Ltd., Chowgule House, Mormugoa, Harbour, Goa – 403803. PAN: AACCC5479J	The JCIT, Special Range, Panaji, Goa.	2010-11
16	19/PAN/2020	The JCIT, Special Range, Panaji, Goa.	Colorcon Asia Private Limited, Plot No.M-14 to M-18, Verna Indl. Estate, Goa – 403722. PAN: AAACC2281Q	2008-09
17	20/PAN/2020	The JCIT, Special Range, Panaji, Goa.	Colorcon Asia Private Limited, Plot No.M-14 to M-18, Verna Indl. Estate, Goa – 403722. PAN: AAACC2281Q	2010-11
18	21/PAN/2020	The JCIT, Special Range, Panaji, Goa.	Colorcon Asia Private Limited, Plot No.M-14 to M-18, Verna Indl. Estate, Goa – 403722. PAN: AAACC2281Q	2011-12
19	22/PAN/2020	The JCIT, Special Range, Panaji, Goa.	Colorcon Asia Private Limited, Plot No.M-14 to M-18, Verna Indl. Estate, Goa – 403722. PAN: AAACC2281Q	2012-13
20	23/PAN/2020	The JCIT, Special Range, Panaji, Goa.	Chowgule & Company Pvt. Ltd., Chowgule House, Mormugoa, Harbour, Goa – 403803. PAN: AACCC5479J	2009-10



21	27/PAN/2020	The JCIT, Special Range, Panaji, Goa.	Chowgule & Company Pvt. Ltd., Chowgule House, Mormugoa, Harbour, Goa – 403803. PAN: AACC5479J	2014-15
22	26/PAN/2020	The JCIT, Special Range, Panaji, Goa.	Chowgule & Company Pvt. Ltd., Chowgule House, Mormugoa, Harbour, Goa – 403803. PAN: AACC5479J	2013-14
23	25/PAN/2020	The JCIT, Special Range, Panaji, Goa.	Chowgule & Company Pvt. Ltd., Chowgule House, Mormugoa, Harbour, Goa – 403803. PAN: AACC5479J	2012-13
24	24/PAN/2020	The JCIT, Special Range, Panaji, Goa.	Chowgule & Company Pvt. Ltd., Chowgule House, Mormugoa, Harbour, Goa – 403803. PAN: AACC5479J	2011-12
25	37/PAN/2020	The Income Tax Officer, Ward-1(3), Panaji–Goa.	Sri Arnav Jeet Baruah, Flat No.10, S-1, Kamat Kinara Caranzalem, Miramar, Panaji.	2013-14
26	43/PAN/2020	The JCIT, Special Range, Panaji, Goa.	Chowgule & Company Pvt. Ltd., Chowgule House, Mormugoa, Harbour, Goa – 403803. PAN: AACC5479J	2010-11
27	44/PAN/2020	The JCIT, Special Range, Panaji, Goa.	Chowgule & Company Pvt. Ltd., Chowgule House, Mormugoa, Harbour, Goa – 403803. PAN: AACC5479J	2016-17
28	47/PAN/2020	DCIT, Circle-2(1), Panaji.	M/s.Vibhav Real Estate, Opp.Eurico Silva House, St.Joaquim Road, Borda, Margoa, Salcete, Goa – 403001. PAN: AAIFV2802K	2015-16
29	CO. No. 04/PAN/2020 (arising out of 26/PAN/2020)	The JCIT, Special Range, Panaji, Goa.	Chowgule & Company Pvt. Ltd., Chowgule House, Mormugoa, Harbour, Goa – 403803. PAN: AACC5479J	2013-14



30	CO. No. 01/PAN/2020 (arising out of 23/PAN/2020)	Chowgule & Company Pvt. Ltd., Chowgule House, Mormugoa, Harbour, Goa – 403803. PAN: AACC5479J	The JCIT, Special Range, Panaji, Goa.	2009-10
31	CO. No. 01/PAN/2021 (arising out of 44/PAN/2020)	Chowgule & Company Pvt. Ltd., Chowgule House, Mormugoa, Harbour, Goa – 403803. PAN: AACC5479J	The JCIT, Special Range, Panaji, Goa.	2016-17
32	CO. No. 02/PAN/2020 (arising out of 24/PAN/2020)	Chowgule & Company Pvt. Ltd., Chowgule House, Mormugoa, Harbour, Goa – 403803. PAN: AACC5479J	The JCIT, Special Range, Panaji, Goa.	2011-12
33	CO. No. 03/PAN/2020 (arising out of 25/PAN/2020)	Chowgule & Company Pvt. Ltd., Chowgule House, Mormugoa, Harbour, Goa – 403803. PAN: AACC5479J	The JCIT, Special Range, Panaji, Goa.	2012-13
34	CO. No. 05/PAN/2020 (arising out of 27/PAN/2020)	Chowgule & Company Pvt. Ltd., Chowgule House, Mormugoa, Harbour, Goa – 403803. PAN: AACC5479J	The JCIT, Special Range, Panaji, Goa.	2014-15
35	CO. No. 08/PAN/2020 (arising out of 19/PAN/2020)	Colorcon Asia Private Limited, Plot No.M-14 to M-18, Verna Indl. Estate, Goa – 403722. PAN: AAACC2281Q	The JCIT, Special Range, Panaji, Goa.	2008-09
36	CO. No. 09/PAN/2020 (arising out of 20/PAN/2020)	Colorcon Asia Private Limited, Plot No.M-14 to M-18, Verna Indl. Estate, Goa – 403722. PAN: AAACC2281Q	The JCIT, Special Range, Panaji, Goa.	2010-11
37	CO. No. 10/PAN/2020 (arising out 21/PAN/2020)	Colorcon Asia Private Limited, Plot No.M-14 to M-18, Verna Indl. Estate, Goa – 403722. PAN: AAACC2281Q	The JCIT, Special Range, Panaji, Goa.	2011-12
38	CO. No. 11/PAN/2020 (arising out of 22/PAN/2020)	Colorcon Asia Private Limited, Plot No.M-14 to M-18, Verna Indl. Estate, Goa – 403722. PAN: AAACC2281Q	The JCIT, Special Range, Panaji, Goa.	2012-13



द्वारा / Represented

Assessee by : For Sr No 3 & 4 Mr S. J. Kamat, For Sr No. 10 to 14 Ms Priyanka,
For Sr No. 15, 20 to 24, 26, 27 & 29 to 34 Ms Hiral Sejpal,
For Sr No. 16 to 19 & 35 to 38 Mr Vishal Karla, For Sr No. 28 Mr R Pikale,
For Sr No. 38 Mr Samir Anvekar and None for Sr No. 1, 2, 5 to 9 & 25.

Revenue by : Shri N. Shrikanth for Sr No. 1 to 14, 25 & 28 and Shri B. Y. Chavan for Sr No. 15
to 24, 26, 27, 29 to 38.

सुनवाई की तारीख / Date of conclusive Hearing : 10/08/2023

घोषणा की तारीख / Date of Pronouncement : 24/08/2023

आदेश / ORDER

PER BENCH;

These Thirty Eight appeals and cross objections are instituted u/s 253(1) and (2) of the Income-tax Act, 1961 [‘the Act’ hereinafter] are directed against separate orders of first appellate authority [‘CIT(A)’ hereinafter] passed u/s 250 of the Act for various assessment years [‘AY’ hereinafter]

2. During the course of hearing, a common threadbare issue in all these appeals came to the attention of the bench, for the reason, these are taken up together for the sake of brevity and for a common & consolidated order. We have taken ‘**Good Luck Developers**’ ITA No. 59/PAN/2020 as lead case, resultantly adjudication laid in succeeding paragraphs shall *mutatis-mutandis* apply to remaining thirty seven appeals/Cos. as placed at Sr No. 2 to 38.

3. At the outset of virtual hearing, learned counsels for respective assessee’s [‘ARs’ hereinafter], without going into merits, have raised an oral legal ground challenging very validity of the impugned orders in the light of Circular No.19/2019 dt. 14/08/2019 issued by the Central Board of Direct Taxes [‘CBDT’ hereinafter].



4. *Per contra*, Ld. Departmental Representatives Mr N. Shrikanth & Mr. Chavan ['DR' hereinafter] objecting the admission submitted that, the impugned orders indeed bears a manual Appeal Register Number alongwith ITA Nos. allotted thereto, therefore corresponding Document Identification Number ['DIN' hereinafter] in compliance with the CBDT Circular (supra) must have been generated, which however remained to be quoted in the body thereof while communicating to the respective assessee. The Ld. DR also capitulated that, aforestated circular (supra) came into force w.e.f. 01/10/2019 whereas the impugned appellate orders were passed in initial transition period wherefore department was instructed for maintaining parallel manual records in addition to DIN records. Therefore the Ld. CIT(A) as an abundant precaution has invariably quoted these control numbers which can be vouched with corresponding DIN (if any) and compliance of CBDT Circular (supra).

5. Heard common rival contentions; and subject to rule 18 of Income Tax Appellate Tribunal, Rules 1963, perused material placed on record, case laws relied by both the parties and duly considered the facts of the case in the light of settled legal position which are also forewarned to respective rival parties.

6. Before setting clock for adjudication, first to deal with the question as to ***'whether such legal ground raised first time before the Tribunal can be admitted?'*** more specifically when it was not raised before the first appellate authority and not the subject matter of impugned orders assailed against. In this context, it shall suffice to quote that, the legal ground raised by the



assessee is ascended out of the impugned order and goes to challenge validity thereof. Admittedly no new facts are required to be investigated or verified for the purpose, therefore such being a bald legal ground deserves admission in the light of ratio laid down by the Hon'ble Apex Court in '*CIT Vs National Thermal Power Company Ltd.*' reported in 229 ITR 383 (SC), and Hon'ble Delhi High Court in '*Gedore Tools Pvt Ltd. Vs CIT*' reported in 238 ITR 268. After due consideration of assessee's plea and submission, we are satisfied that, omission to raise legal ground while filing present appeal was neither wilful nor unreasonable, for the reason we deem it fit to admit in the light of judicial precedents laid in '*Jaora Sugar Mills Pvt. Ltd v CIT*' reported in 124 ITR 482 (MP), and '*CIT v Western Rolling Mills Pvt. Ltd.*' reported at 156 ITR 54 (Bom) and '*Jute Corporation of India Ltd. v CIT*' find placed in 187 ITR 688(SC) and '*Ahmedabad Electricity Co. Ltd. v CIT*' reported in 199 ITR 351(Bom), *ergo* same stands admitted.

7. We observed that, in order to prevent manual practice of issuance of notice, **order**, summons, letter or any other correspondence [defined as '**Communication**'] and to maintain proper **audit trail** of all communication the CBDT in exercise of its power u/s 119 of the Act, vide circular No. 19/2019 dt. 14/08/2019 mandated the income tax authorities w.e.f. 01/10/2019 for generation, allotment and communication of computer generated DIN in relation to any assessment, **appeals, orders**, statutory or otherwise, exemptions, enquiry, investigation, verification of information, penalty, prosecution, rectification, approval etc.



8. *Albeit* para 2 of aforesaid circular mandates for DIN compliance, para 3 thereof provides five exceptional circumstances wherefore manual communication is permitted without initially complying with DIN requirement. However such issuance of manual communication requires recording of reasons therefore and prior approval from CCIT/DGIT. In terms of para-5 it is also subjected for regularisation of DIN compliance within a period of 15 working days of such manual issuance. Here it is worthy to note that, any communication made not in conformity with or in violation of Para-2 save otherwise provided in Para 3 & 5 thereof, invariably renders the communication as invalid and shall be deemed to have never been issued.

9. While vouching the effect of non-generation *vis-à-vis* non-quoting of DIN, we note that, the Hon'ble Delhi High Court while dealing with similar issue in '*CIT Vs Brandix Mauritius Holdings Ltd.*' (163/2023 dt. 20/03/2023), has held that the communication in relation to assessments, appeals, **orders** etc., which finds mention in paragraph 2 of the 2019 circular, albeit without DIN, can have no standing in law, having regard to the provisions of paragraph 4 of the 2019 circular. It is further observed by the Hon'ble High Court that in view of the decision of Hon'ble Supreme Court in the case of '*K.P. Varghese Vs ITO, Ernakulum* (1981) 4 SCC 173 and in the case of '*Back Office IT Solutions Pvt. Ltd. Vs UOI*' (2021) SCC online Del 2742, circulars issued by the CBDT binds the Revenue in their administration or implementation, and such circulars cannot be side-stepped causing prejudice to the assessee by bringing to naught the object for which such circulars are issued.



10. In light of aforesaid legal position & our discussion, in the present case we note that, the impugned appellate order was subject matter of DIN compliance; however same remained to be complied by generating & quoting the DIN in the body thereof. Thus admittedly impugned appeal order was communicated in violation of Para-2 of CBDT Circular (supra). Further, the Revenue also failed to place on record any evidence showcasing effectively that the case of the assessee fell within any of the five exceptional circumstances as envisaged in Para-3 and accompanying therewith evidentiary documents in terms Para-5 thereof in establishing regularisation of earlier manual communication. Therefore, this communication of impugned order suffered from compliance and rendered invalid as if it has never been issued. In our considered view, for the aforesaid reasons, the impugned order ceases to have any effect in the eyes of law as *non-est*. In view of this categorical finding, delving deeper into merits is unwarranted.

10.1 **In result**, the appeal of the assessee is **ALLOWED**. Next fourteen appeals of different assessee's placed at Sr No. 2 to 15 also stands **ALLOWED**. Next thirteen appeals & a cross objection of the Revenue placed at Sr No. 16 to 29 are **DISMISSED**, and Next nine Cross Objections of different assessee's placed at Sr No. 30 to 38 are stands **ALLOWED**.

U/r 34 of ITAT Rules, these orders are pronounced in the open court on this Thursday 24th day of August, 2023.

-S/d-

S. S.GODARA

JUDICIAL MEMBER

पुणे / PUNE ; दिनांक / Dated : 24th day of August, 2023.

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1.अपीलार्थी / The Appellant.

2. प्रत्यर्थी / The Respondent.

4. The Pr.CIT, Panaji

5. DR, ITAT, Bench, Panaji

*SGR(Allotment 19:19)

-S/d-

G. D. PADMAHALI

ACCOUNTANT MEMBER

3. The CIT-(A) Panaji-1, Goa

6.गार्डफाइल / Guard File.

आदेशानुसार / By Order

वरिष्ठ निजी सचिव / Sr. Private Secretary

आयकर अपीलार्थी न्यायाधिकरण, पुणे / ITAT, Pune.