आयकर अपीलीय अधिकरण, पुणे न्यायपीठ "ए" पुणे में
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", 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.1390 & 1391/PUN/2015
निर्धारण वर्ष / Assessment Years : 2009-10 & 2010-11

Shri Kannayalal C. Manwani,
7A, Holaram Colony,
Sadhy Waswani Road,
Nashik – 422002
PAN : AEGPM7310B .... अपीलार्थी/Appellant

Vs.

ACIT, Central Circle-1,
Nashik .... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Shri Sanket Joshi
प्रत्यर्थी की ओर से / Respondent by : Shri Ajay Modi

सुनवाई की तारीख / **Date of Hearing : 26.10.2017**	घोषणा की तारीख / **Date of Pronouncement:27.10.2017**

आदेश / ORDER

PER D. KARUNAKARA RAO, AM :

There are 2 appeals under consideration filed by the assessee for the A.Yrs. 2009-10 and 2010-11. They relate to levy of interest u/s.234B of the Act qua the seized cash. In both the appeals, assessee raised an identical grounds stating that it is a case where there was action u/s.132 of the Act which resulted in the discovery of seizure of cash. The said cash was not adjusted towards the advance tax liability of the assessee for both the assessment years under consideration.

2. In the grounds, assessee is aggrieved with the order of the AO in charging the said interest while making the assessment when the assessee's seized cash is with the Revenue. CIT(A) confirmed the said order of the AO. Aggrieved with the same, the assessee is in appeal before us for both the assessment years.

3. At the outset, Ld. Counsel for the assessee filed a letter stating the following :

> *"The above appeals have been filed by the assessee for A.Y. 2009-10 and 2010-11. The assessee requests to withdraw the above appeals filed by him. The assessee would be grateful if the above request is accepted."*

4. Giving the reasons for the above request, Ld. Counsel for the assessee submitted that this is a case where assessee failed to make a request to the AO as per the provisions of section 132B of the Act asking for adjustment of the seized cash towards *"any existing liabilities".* He also mentioned fairly that although a letter dated 14-10-2010 was written with similar request for the A.Y. 2010-11, the same could not be filed within 30 days from the end of the month in which asset was seized. This condition is specified in the first proviso to clause (i) of section 132B(i) of the Act. Thus, the assessee failed to meet this condition for A.Y. 2010-11. Assessee did not make any request at all for A.Y. 2009-10. This is a case where the cash was seized in the search conducted on 06-01-2010.

5. After hearing both the sides and considering the above request of the assessee, we are of the opinion that the request of the assessee should be favourably allowed. Accordingly, the grounds raised by the assessee are dismissed as 'withdrawn'.

6. In the result, both the appeals of the assessee are dismissed as 'withdrawn'.

Order pronounced in the open court on this 27th day of October, 2017.

Sd/-	Sd/-
(VIKAS AWASTHY)	**(D. KARUNAKARA RAO)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

पुणे Pune; दिनांक Dated : 27th October, 2017.
सतीश

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. The CIT(A)-12, Pune
4. CIT –12, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A Bench" Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune