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

श्री आर. के. पांडा, लेखा सदस्य
एवं श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष

BEFORE SHRI R.K. PANDA, AM
AND SHRI VIKAS AWASTHY, JM

आयकर अपील सं. / **ITA Nos.2151 to 2157/PN/2013**
निर्धारण वर्ष / **Assessment Years : 2004-05 to 2010-11**

Shri Arvind Janardhan Pandey,
22-C, Diamond Park,
Park Street, Kalewadi Phata,
Wakad, Pune – 411 057
PAN No.AARPP2115Q

.... अपीलार्थी / Appellant

बनाम v/s

ITO, Central-II, Pune

.... प्रत्यर्थी / Respondent

आयकर अपील सं. / **ITA Nos.1156 to 1162/PN/2013**
निर्धारण वर्ष / **Assessment Years : 2004-05 to 2010-11**

Mr. Sonal Parag,
15-C, Diamond Park,
Park Street, Kalewadi Phata,
Wakad, Pune – 411 018
PAN No.AMNPP3292J

.... अपीलार्थी / Appellant

बनाम v/s

ITO, Central-II, Pune

.... प्रत्यर्थी / Respondent

आयकर अपील सं. / **ITA Nos.95 to 101/PN/2014**
निर्धारण वर्ष / **Assessment Years : 2004-05 to 2010-11**

Shri Janardhan Sarvadeo Pandey,
22-C, Diamond Park,
Park Street, Kalewadi Phata,
Wakad, Pune – 411 018
PAN No.ALDVPP2116L

.... अपीलार्थी / Appellant

बनाम v/s

ITO, Central-II, Pune

.... प्रत्यर्थी / Respondent

आयकर अपील सं. / ITA No.108/PN/2014
निर्धारण वर्ष / Assessment Year : 2006-07

Mrs. Neelam Arvind Pandey, 22-C, Diamond Park, Park Street, Kalewadi Phata, Wakad, Pune – 411 018 PAN No.ALYPP2394R	.... अपीलार्थी / Appellant

बनाम v/s

ITO, Central-II, Pune	.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Assessees by : Shri S.N. Puranik
प्रत्यर्थी की ओर से / Revenue by : Shri D.N. Parakh

सुनवाई की तारीख / Date of Hearing :28.01.2016		घोषणा की तारीख / Date of Pronouncement:29.02.2016

आदेश / ORDER

PER VIKAS AWASTHY, JM :

These 22 appeals have been filed by the assessees assailing the order of the CIT(A) in the respective cases. Since all these appeals are arising from the same set of facts, the appeals are taken up together for adjudication and are decided by this common order.

2. ITA No.2151/PN/2013 to 2157/PN/2013 for the Assessment Years 2004-05 to 2010-11 are directed against the order of CIT(A) Central, Pune dated 21-11-2012 common for all the assessment years. In ITA No. 1156/PN/2013 to ITA No.1162/PN/2013, the assessee has assailed the order of CIT(A) Central Pune dated 28-02-2013 common for the Assessment Years 2004-05 to 2010-11. In ITA No. 95/PN/2014 to ITA No.101/PN/2014 the assessee has assailed the order of CIT(A), Central Pune dated 22-10-2013 common for the Assessment Years 2004-05 to 2010-11. In ITA No.108/PN/2014 the

assessee has impugned the findings of CIT(A) Central Pune dated 22-10-2013 for the Assessment Year 2006-07.

3. The brief facts in appeals as emanating from the records are : The facts narrated herein below are taken from the appeals of Shri Arvind Janardhan Pandey, as he was the prime person managing the transactions. The other assesses are his associates and close relatives.

A search action was carried out on 07-08-2009 at the residential and business premises of Shri Arvind Janardhan Pandey and his associate Shri Sonal Parag. During the course of search, incriminating records indicating huge cash receipts and payments on account of arranging admission for professional courses were found. The documents seized also indicated that the assessees were not only involved in arranging for the seats in the professional courses, but were also arranging higher marks for a consideration. The assessee was involved in getting admissions out of management quota and securing pass marks for the students who did not fair well in the examination. The notings in the diaries and other documents which were seized during the search indicated that huge amounts were collected by the assessees, specially for the medical seats. For securing MBBS seat, the assessees would charge between Rs.10 to 20 lakhs. For Post Graduate Medical Course, the amount charged was in the range of Rs.35 to 80 lakhs. During search it was found that the assessee was not maintaining regular books of accounts. Neither any cash receipts nor payment accounts for the impugned assessment years were found.

However, the assessee produced the books of account during the course of assessment proceedings. The assessee (Shri Arvind Janardhan Pandey) claimed that he has filed his return of income for the impugned assessment years in the office of DCIT, Central Circle-2(1), Pune. On investigation, returns allegedly filed by the assessee were not found in the office of DCIT, Central Circle-2(1), Pune. The AO observed that the return register number pertaining to the date on which the alleged returns were filed does not match with the numbers on the return of income, thus the claim of the assessee that the returns have been filed for the impugned assessment years is false. After the search notices u/s.153A were issued to the assessee on 10-02-2010 for all the impugned assessment years. In response to the notices the assessee did not file return of income for the respective assessment years within the time specified. It was on subsequent notices that the assessee filed his return of income. A perusal of the assessment orders would show that assessee was non cooperative right from the beginning. At the time of search the assessee deliberately suppressed the information and repeatedly sought time to furnish the information. Despite seeking time, no information was furnished by the assessee. During the course of assessment proceedings the attitude of the assessee did not change. He did not cooperate with the AO. Time and again, the AO asked the assessee to furnish complete details of the students from whom the amounts were received for admission to various courses. However, the assessee remained silent and did not divulge any details about the students and the courses for which the admissions were arranged. The AO in his order has given specific instances where the assessee gave irrelevant replies on the specific questions. During assessment, the assessee avoided explaining the seized documents and furnish of the relevant details. In the books of account that were produced by the assessee during the course of assessment proceedings, there were several discrepancies and defects. The assessee did not furnish any supporting vouchers/bills to substantiate the entries in the books of account. The AO has also recorded the instances where the assessee was trying to influence the AO through the JCIT by sending SMSs on his Mobile Number. The assessee time and again expressed his ignorance in giving the basic details of the admissions secured by him. The assessee admitted that they have destroyed the record in respect of such admissions. In absence of any documents and cooperation from the assessee the AO was constrained to make additions/disallowance on estimations.

In the backdrop of above facts, the appeals of the assesses are decided as under :

ITA Nos.2151 to 2157/PN/2013 – A.Yrs. 2004-05 to 2010-11: (Shri Arvind Janardhan Pandey :

4. The additions were made in all the impugned assessment years on similar counts in the hands of the assessee, therefore, for the sake of convenience we take the appeal in ITA No.2151/PN/2014 for the Assessment Year 2004-05 as lead case.

5. The assessments for A.Y. 2004-05 to A.Y. 2009-10 were made u/s.143(3) read with section 153A of the Act. The assessment for A.Y. 2010-11 was completed u/s.143(3) of the Act. The AO primarily made additions on account of receipts for arranging admissions, lower withdrawal for household expenses, disallowance on account

of inflated expenses and receipts for securing pass marks. Aggrieved by the additions, the assessee preferred appeal before the CIT(A). The CIT(A) after appreciating the facts of the case and documents on record confirmed some of the additions and granted part relief in the others. The CIT(A) decided the appeals of the assessee (Shri Arvind Janardhan Pandey) for the impugned assessment years 2004-05 to 2010-11 vide single order.

The additions made by the AO and relief granted by the CIT(A) in the assessment years under appeal are tabulated hereinunder :

A.Y. 2004-05 :

Description of the addition made	Additions made by the AO	Relief granted by the CIT(A)
Disallowance of Expenses	1,17,813/-	NIL
Disallowance of brought forward losses	4,84,139/-	NIL
Withdrawal for household expenses	4,00,000/-	2,00,000
Income from arranging admissions	29,98,048/-	9,98,048/-

A.Y. 2005-06 :

Description of the addition made	Additions made by the AO	Relief granted by the CIT(A)
Disallowance of Expenses	3,71,270/-	NIL
Withdrawal for household expenses	5,00,000/-	NIL
Income from arranging admissions	65,00,000/-	43,71,270/-

A.Y. 2006-07 :

Description of the addition made	Additions made by the AO	Relief granted by the CIT(A)
Disallowance of Expenses	8,85,067/-	NIL
Withdrawal for household expenses	6,00,000/-	NIL
Income from arranging admissions	55,14,933/-	15,14,933/-
Receipts for securing pass marks	16,80,000/-	NIL

A.Y. 2007-08 :

Description of the addition made	Additions made by the AO	Relief granted by the CIT(A)
Disallowance of Expenses	16,16,287/-	NIL
Withdrawal for household expenses	9,00,000/-	NIL
Income from arranging admissions	54,83,713/-	9,83,713/-
Receipts for securing pass marks	71,09,000/-	NIL

A.Y. 2008-09 :

Description of the addition made	Additions made by the AO	Relief granted by the CIT(A)
Disallowance of Expenses	17,46,327/-	NIL
Withdrawal for household expenses	10,00,000/-	NIL
Cash given to Father (Shri Janardhan Pandey)	1,67,37,000/-	NIL
Estimation of Net profit @ 25% of total receipts	40,00,000	NIL

A.Y. 2009-10 :

Description of the addition made	Additions made by the AO	Relief granted by the CIT(A)
Disallowance of Expenses	17,46,327/-	NIL
Withdrawal for household expenses	13,00,000/-	NIL
Cash given to Father (Shri Janardhan Pandey)	1,67,37,000/-	NIL
Estimation of Net profit @ 25% of total receipts	5,25,00,000/-	NIL

A.Y. 2010-11 :

Description of the addition made	Additions made by the AO	Relief granted by the CIT(A)
Disallowance of Expenses	17,56,880/-	NIL
Withdrawal for household expenses	10,00,000/-	NIL
Cash found during the course of search	20,20,500/-	NIL
Difference in purchase price of property	25,00,000/-	NIL
Income from arranging admissions	5,52,22,620/-	NIL

6. The assessee in second appeal before the Tribunal has primarily assailed the findings of the CIT(A) on following grounds in A.Y.2004-05 to A.Y. 2010-11 :

i. Confirming disallowance of excess expenditure claimed by the assessee.

ii. Confirming the addition on account of low household withdrawals.

iii. Additional income estimated on account of admission receipts.

iv. Prayed for granting the benefit of telescoping.

v. Confirming disallowance of set off of brought forward depreciation from earlier years (in A.Y. 2004-05 only).

vi. In A.Y. 2006-07 and 2007-08 the assessee has also impugned the findings of CIT(A) in confirming the addition on account of receipts for securing pass marks (passing receipts) Rs.16,80,000/- in A.Y. 2006-07 and Rs.71,09,000/- in A.Y. 2007-08.

vii. Apart from the above common grounds, in the assessment years 2008-09 and 2009-10 the assessee has assailed the estimation of Net Profit margin (25%) by the AO and confirmed by the CIT(A) being on the higher side. The assessee has also assailed the addition confirmed on account of cash given to father, as income of the assessee.

viii. In A.Y. 2010-11 the assessee has also challenged the order of CIT(A) in confirming addition of Rs.25,00,000/- towards the purchase of property and Rs.20,20,500/- as cash found during the search.

7. Shri S.N. Puranik appearing on behalf of the assessees submitted that the additions have been made in the impugned assessment years on identical grounds. The additions have been made after search at the residential and business premises of Shri Arvind Janardhan Pandey. The Ld. Authorised Representative submitted that the assessee had filed original return of income for the assessment year 2004-05 on 30-12-2004. Thereafter, the assessee filed return of income in response to notice u/s.153A on 25-03-2010. The AO in an arbitrary and unjustified manner has

made additions/disallowances. The disallowance of expenditure estimated at 20% is on the higher side.

8. In respect of disallowance on account of household expenses, the Ld. Authorised Representative submitted that for the assessment year 2004-05 the CIT(A) has made a reasonable disallowance, however, in other assessment years it is on the higher side. With regard to non granting of set off of brought forward depreciation from earlier years the Ld. Authorised Representative submitted that the assessee is eligible to claim the same. The benefit of set off of brought forward depreciation has been denied without any basis.

9. The Ld. Authorised Representative contended that in A.Yrs. 2006-07 and 2007-08 the addition has been made on account of money received for securing pass marks for the students. The AO has made addition only on the ground that the word 'sir' is used in the documents which refers to the assessee. Infact the word 'sir' used in the documents means the person to whom the payments were made and not the assessee. The alleged payments for securing pass marks have not been received by the assessee, therefore, no addition is called for. The Authorised Representative made an alternate submission that even if the addition is to be made, the gross amount cannot be added in the income of the assessee. Some part of the amount received for securing pass marks must have been passed on to the institutions/colleges where admissions were arranged, therefore, the addition of net amount can be made.

10. The Ld. Authorised Representative further submitted that in A.Yrs. 2008-09 & 2009-10 the AO has estimated profit margin of the net receipts at 25% which is very much on the higher side. The AO

has not found or brought on record any undisclosed or additional investment other than the assets disclosed in the balance sheet filed along with the return. There is no basis for estimating the net profit at such a higher margin. Even if the addition is to be made, the same should be at a nominal rate. The Ld. Authorised Representative submitted that the impugned orders may be set aside and the appeals of the assessee may be allowed.

The Ld. Authorised Representative submitted at the Bar that the additional ground raised in the impugned assessment years is not pressed.

11. On the other hand Shri D.N. Parakh representing the Department submitted that the assessee was not maintaining any books of account during the impugned assessment years. No books were found by the Department during the search. The books which were furnished subsequently at the time of assessment were prepared after the date of search on verbal informations/instructions from various sub agents. The returns of income allegedly filed by the assessee before the DCIT, Central Circle-2(1), Pune were never located. The AO has given a categoric finding that the assessee has fraudulently obtained acknowledgement receipts in respect of returns of income. The act and conduct of the assessee throughout has been non-cooperative and under the shadow of suspicion. The assessee has admitted that the evidences have been destroyed, in such circumstances the AO was constrained to make additions on the basis of estimations. The assessee has not denied the receipt of amounts for securing admissions in various professional colleges. There is nothing on record to show that the assessee has passed any share in receipts

for securing admissions in various professional courses or for securing pass marks. The Ld. Departmental Representative contended that in so far as estimation of 25% Net Profit margin in A.Yrs. 2008-09 and 2009-10 is concerned, the assessee has accepted the same. The Ld. Departmental Representative vehemently supported the findings of the CIT(A) and prayed for dismissing the appeals of the assessee.

12. Controverting the submissions made on behalf of the Department, the Ld. Authorised Representative submitted that the assessee never accepted the margin of 25% as alleged by the Ld. Departmental Representative. The Ld. Authorised Representative further submitted that the assessee has cooperated with the Department during assessment proceedings and had given the names of the institutions to whom donations were given. To substantiate his assertions, the Ld. Authorised Representative referred to the statement of the assessee recorded on 08-08-2009 placed on record at pages 745 to 761 (relevant page 757) of the paper book.

13. We have heard the submissions made by the representatives of rival sides and have perused the orders of the authorities below. After close scrutiny of the impugned order, we find that the assessee has been non-cooperative during the search as well as during assessment proceedings. The AO was constrained to make additions on estimations in the absence of any cooperation from the assessee. It is evident from the orders of the authorities below that the assessee was not maintaining regular books of account. During search and assessment proceedings the assessee did not cooperate in explaining the notings. Even before CIT(A) the assessee was not

able to place on record any material to controvert the finding of the AO. In fact the assessee did not dispute the additions made on account of receipts for arranging admissions and pass marks. Accordingly, CIT(A) confirmed the findings of the AO in respect of the additions made. Wherever the assessee was able to show that the additions made were on the higher side, the CIT(A) has granted relief to the assessee.

14. In A.Y. 2008-09 and 2009-10 the assessee has assailed the findings of CIT(A) in estimating receipts as well as Net Profit. The Ld. Authorised Representative submitted that the AO estimated receipts at Rs.16,00,00,000/- in A.Y. 2008-09 and Rs.21,00,00,000/- in A.Y. 2009-10. The AO made addition by further estimating Net Profit margin @25% of the estimated receipts. The Ld. Authorised Representative contended that Net Profit margin estimated by AO is very much on the higher side and the CIT(A) has confirmed the Net Profit margin without considering the submissions of the assessee.

We find that the receipts have been estimated in all the impugned assessment years on the basis of incriminating material seized during search. From the documents seized it was quite evident that there were huge cash transaction which were not recorded in the books prepared even subsequent to search. The assessee failed to explain the transactions recorded in documents seized. From the seized documents it was amply evident that the assessee was engaged in buying seats from educational institutions. The assessee has neither denied the transactions nor explained the same. Thus, the AO was constrained to estimate the income on the basis of documents and material available on record. In A.Y. 2008-

09 and 2009-10, the AO estimated the net profit at 25% of the gross estimated receipts. In view of the fact that gross receipts are estimated and further net margin is also estimated, we are of considered opinion that net profit is estimated marginally on the higher side. To meet the ends of justice, we reduce net profit from 25% to 20%. Thus, the appeals of the assessee for A.Y. 2008-09 and 2009-10 are partly acepted in the aforesaid terms.

15. As regards the other grounds raised in A.Y. 2008-09 and A.Y. 2009-10, and the grounds raised in other assessment years under appeal before the Tribunal except for the bald assertions, the Ld. Authorised Representative of the assessee has not been able to substantiate as to how the additions confirmed by the CIT(A) are erroneous or perverse. After examining the facts of the case and documents on record, we do not find any error in the impugned order. The order of first appellate authority is detailed and justified and we concur with the same. For the sake of brevity, we are not reproducing the findings of CIT(A) in respect of the additions confirmed as they are exhaustive and well reasoned. The Hon'ble Supreme Court of India in the case of CIT Vs. K.Y. Pillai and Sons reported as 63 ITR 411 SC has held that where the Tribunal has concurred with the view of CIT(A), there is no need to repeat the reasoning of CIT(A). Similar view has been taken by the Hon'ble Delhi High Court in the case of CIT Vs. Global Vantedge Pvt. Ltd. reported as 354 ITR 21. Since the Ld. Authorised Representative of the assessee has not been able to controvert the finding of the CIT(A) or has placed on record any material to the contrary, we do not find any reason to interfere with the impugned order. Accordingly, the

appeals of the assessee for A.Yrs 2004-05 to 2007-08 and 2010-11 are dismissed being devoid of any merit.

16. In the result, the appeals of the assessee for A.Y. 2004-05 to 2007-08 and A.Y. 2010-11 are dismissed and the appeals for A.Y. 2008-09 and 2009-10 are partly allowed.

ITA Nos.1156 to 1162/PN/2013 - A.Y. 2004-05 to A.Y. 2010-11 (Shri Sonal Parag) :

17. The assessee in these set of appeals is an associate of Shri Arvind Janardhan Pandey. Both the said persons were jointly engaged in arranging admissions to the professional courses in various institutions by charging commission from the students. The facts narrated in para 3 above are common and would apply mutatis mutandis in the case of present assessee.

18. The additions were made in the income returned by the assessee in assessment proceedings u/s.143(3) r.w.s. 153A consequent to the search. In first appeal the CITA) after appreciating the facts granted part relief to the assessee in respect of household expenses in A.Y. 2004-05 and in the remaining assessment years the CIT(A) confirmed the findings of AO.

19. Aggrieved by the order of CIT(A) dated 28-03-2013 common for Assessment Years 2004-05 to 2010-11, the assessee is in appeal for all the assessment years.

ITA No. 1156/PN/2013 - A.Y. 2004-05 :

20. The assessee had declared income of Rs.29,89,150/- in A.Y. 2004-05. The AO assessed the total income of the assessee at Rs.37

lakhs vide order dated 30-12-2011 after making additions on following counts :

i. Money received on account of arranging admissions
ii. Household expenses
iii. Opening Capital

The assessee had shown withdrawals of Rs.2,32,573/- on account of household expenses. The AO observed that the assessee is having cash to the extent of Rs.87,88,000/-, jewellery to the tune of Rs.11,64,240/-, 2 luxury cars, a bungalow measuring approximately 3000 sq.ft. and investments in KVPs of more than Rs.81 lakhs. Keeping in view the status & lifestyle of assessee, the AO made addition of Rs.7,10,850/- on account of household expenses. The AO further observed that the assessee has not been able to explain opening cash of Rs.1,31,500/- and capital account balance of Rs.1,953/- in M/s. Saheb N Sahiba. No basis for having opening cash balance and capital account was given. Thus, the AO made a lumpsum estimate of the income of the assessee at Rs.37 lakhs.

21. Before the CIT(A), the assessee contended that no incriminating evidence was recorded for the period relating to the A.Y. 2004-05 and 2005-06. The AO could not find any undisclosed asset which was not covered by the income declared by the assessee. The total addition made during the assessment year by the AO Rs.7,10,850/- is towards the lower withdrawal for household expenses only. In the period relevant to A.Y. 2004-05, the assessee was leading a bachelor life in a shared flat with 4 friends. Since he had joined Shri Arvind Janardhan Pandey during that period, most of the times he was having lunch and dinner with him only. The assessee was not having any luxury car or lavish life style during the

period relating to A.Y. 2004-05 and thus, there was no question of spending such a huge sum on household expenses. The CIT(A) accepted the contention of the assessee and restricted the addition to Rs.6 lakhs and further gave credit of Rs.2,32,573/- which was already declared by the assessee in his return of income. The CIT(A) thus confirmed the total addition of Rs.5,00,880/-, i.e. Rs. 6 lakhs – Rs.2,32,573/- = Rs.3,67,427 (household expenses) + 1,31,500 (opening cash balance) + 1,953 (capital account balance).

22. We have heard the submissions made by the representatives of both the sides and have perused the record. The fact that the assessee was residing in a tenanted shared flat during the period relevant to assessment year 2004-05 has not been controverted by the Ld. Departmental Representative. We find merit in the contentions of the Ld. Authorised Representative that since the assessment year under consideration was one of the initial year when the assessee had joined Shri Arvind Janardhan Pandey it seems unlikely that the assessee would have been owning luxury cars and was living a lavish life. The authorities below have not ascertained as to when the assessee had purchased luxury cars and the bungalow. Accordingly, we are of the considered view that Rs.50,000/- per month towards household expenses estimated by the CIT(A) is on the higher side. In view of the facts and circumstances of the case, we restrict the household expenditure to Rs.30,000/- per month after giving the credit of Rs.2,32,573/-. Thus, the assessee gets the benefit of Rs.2,40,000/-Accordingly, grounds of appeal No.1 and 2 are partly accepted.

23. No explanation whatsoever has been offered by the Ld. Authorised Representative controverting the addition impugned in ground No.3 with respect to opening cash balance Rs.1,31,500/- and capital account balance Rs.1,953/-. Accordingly, the same is rejected.

24. In ground No.4 of appeal, the assessee has assailed the findings of CIT(A) in upholding the rejection of books of account by AO. The Departmental Representative has pointed that during the course of search no books of account were found. It was during the assessment proceedings that the assessee furnished the books of account. The assessee was not maintaining regular books. The books produced by assessee were made subsequent to the search. The AO found discrepancies and deficiencies in the books. No plausible reason whatsoever was given to explain the deficiencies. There were no bills, vouchers etc supporting the entries in the books. Accordingly, the AO rejected the books of account. During the pendency of proceedings before CIT(A) the assessee could not substantiate with documentary evidence that the assessee was maintaining regular books of account. Thus, we do not find any merit in this ground of appeal of the assessee. The authorities below have given a categoric finding that the assessee did not cooperate during search proceedings. Even during the assessment proceedings the assessee did not explain various entries in the books allegedly maintained by the assessee. Thus the AO was constrained to make additions on estimate basis. We do not find any infirmity in the action of authorities below in rejecting books of account and estimating the income on the basis of material seized

during search. Accordingly ground No.4 in the appeal by assessee is dismissed.

25. As regards charging of interest u/s.234A, 234B and 234C is concerned, the same is mandatory and consequential. Accordingly, ground No.5 of appeal is dismissed.

26. In the result, the appeal of the assessee is partly accepted in the aforesaid terms.

<u>ITA Nos.1157/PN/2013 (A.Y. 2005-06) :</u>

27. The assessee has assailed the finding of the CIT(A) in A.Y. 2005-06 on following grounds :

> "1. CIT(A) Central, has erred in confirming the addition of Rs.4,99,518/- to returned income, restricting the relief to Rs.12,18,594/-. Appellant prays to delete the whole of the addition.
>
> 2. CIT(A) Central, has erred in confirming estimate of household expenses of Rs.9,60,000/- by Assessing Officer against actual debit of Rs.4,60,482/- thereby confirming addition of Rs.4,99,518/-. Appellant prays to cancel the addition.
>
> 3. CIT(A) has erred in confirming the Assessing Officer's action of rejecting books of accounts while estimating additions to returned income.
>
> 4. Commissioner (Appeals) has erred in charging interest u/s.234A, B, C particularly interest u/s.234A for the period after date of submission of return on 25-03-2010. Appellant prays for just and equitable relief.
>
> 5. Appellant prays to add, alter, amend and or withdraw the ground/s, as occasion may demand."

The other grounds raised in the appeal are similar to Ground of appeal No.4 and 5 raised in A.Y. 2004-05. We have dismissed those grounds in A.Y. 2004-05. For similar reasons the ground No.3 and 4 raised in the appeal for A.Y. 2005-06 are dismissed.

28. The assessee has returned income of Rs.37,81,888/- in A.Y. 2005-06. The AO assessed the income of the assessee at Rs.55,00,000/- by making addition of Rs.9,60,000/- on account of household expenses and further addition of Rs.7,58,112/- on account of receipts for arranging admissions. The assessee has himself admitted withdrawal of household expenses at Rs.4,60,482/-. The CIT(A) deleted the addition of Rs.7,58,112/- on account of admission receipts and confirmed the addition on account of household expenses after giving the benefit of expenses declared by the assessee. The assessee in present appeal is seeking relief on the amount confirmed by CIT(A) on account of household expenses. In our considered view estimation of household expenses at Rs.9,60,000/- is on higher side in the facts of the case. To meet the ends of justice it would be just and proper if the addition on account of household expenses is made @ Rs.50,000/- per month, i.e. Rs.6 lakhs. The assessee will further get benefit of the amount Rs.4,60,482/- already declared by him. Thus, addition on account of household expenses is restricted to Rs.6,00,000/- including the amount admitted by the assessee. The grounds of appeal No.1 and 2 in the appeal of the assessee are partly accepted in the aforesaid terms.

29. In the result the appeal of the assessee for A.Y. 2005-06 is partly allowed.

<u>ITA Nos.1158/PN/2013 (A.Y. 2006-07) :</u>

30. The assessee in the appeal for A.Y. 2006-07 has assailed the order of CIT(A) by raising following grounds of appeal :

"1. Commissioner (Appeals) - central has erred in confirming the additions made by Assessing Officer to returned income of Rs.30,06,944=00 same may please be deleted.

Sr.No.	Particulars	Addition by Assessing Officer (Rs.)	Confirmed by CIT(A) (Rs.)	Relief (Rs.)
1	Admission receipts	*17,48,252.00	17,48,252.00	
2	Passing receipts	57,39,000,00	57,39,000.00	**
3	Household expenses	12,00,000.00	5,00,000.00	7,00,000,00
4	P&L expenses disallowance	44,804.00	44,804.00	
	Total	87,32,056.00	80,32,056.00	

(*excluding 3 and 4)
(** Rs.16,80,000/- if assessed in the hands of Mr. Arvind Pandey)

2. Without prejudice ground No.1 above

2.1 Commissioner (Appeals) Central has erred in confirming an Adhoc Household addition of Rs.5,00,000.00. Same may please be deleted.

2.2 Commissioner (Appeals) Central has erred in confirming the disallowance of Rs.44,804.00, i.e. 20% expenses debited to profit and loss account. Same may please be deleted.

2.3 CIT(A) has erred in not adjudicating and giving any finding on estimating income of Rs.60,00,000.00 against returned income of Rs.30,06,944.00. Appellant prays to delete the addition. (Rs. 60 lakhs including addition by Assessing Officer of House Hold and disallowance of expenses).

3. Commissioner (A) Central has erred in confirming addition of Rs.57,39,000/- alleging Gross Receipt estimated as Appellants income as against small part of it as Assessee's agency commission for arranging for "passing students".

Appellant prays to delete the addition.

4. Without prejudice and without accepting addition as per Ground No.2.3 and Ground 3, but if it is so held as income, telescoping effect may please be given.

5. Appellant prays for deletion of interest charged u/s.234A from 25-03-2010.

6. Appellant prays for cancellation of interest charged u/s.234B.

7. Appellant prays for just and equitable relief.

8. Appellant prays to add, alter, amend, modify the ground/s or withdraw the same during the appellate proceeding."

31. In ground No.1 the assessee is seeking deletion of the additions/disallowances confirmed by the CIT(A). We find that the CIT(A) after consider the material placed on record before him and the submissions of the assessee has confirmed the additions made by the AO in respect of admission receipts, passing receipts and household expenses. The Ld. Authorised Representative has not been able to show from material on record any perversity or error in the findings of the CIT(A) in confirming additions. Accordingly, the ground No.1 raised in the appeal is dismissed.

32. In ground No.2.1, the assessee has assailed the adhoc addition on account of household expenses. The AO had made addition of Rs.12,00,000/-. The CIT(A) restricted the addition to Rs.5 lakhs. We find that the CIT(A) is quite reasonable and justified in granting the relief to the tune of Rs.7,00,000/- to the assessee. We do not find any infirmity in the findings of the CIT(A) on this issue. Accordingly, this ground of appeal is dismissed.

32.1 As regards the addition of Rs.44,804/- the addition has been confirmed by the CIT(A) on account of unproved/unverifiable expenses. The assessee has claimed expenses to the tune of Rs.2,24,020/- against the gross receipts from consultancy business of Rs.31,22,130/-. Since the expenditure was not supported by any cogent evidence the AO disallowed the expenditure to the tune of 20% of the total expenditure claimed. The CIT(A) has confirmed the same. The disallowance has been made on estimation, which to our mind is on the higher side. To meet the ends of justice we restrict the disallowance to 10% of the expenditure claimed. Accordingly, this ground No.2.2 of appeal is partly accepted.

32.2 The assessee in ground No.2.3 of the appeal has assailed the order of CIT(A) in confirming estimated income of Rs.60,00,000/- against returned income of Rs.30,06,944/-. In ground No.3 the assessee has impugned the addition of Rs.57,39,000/- on account of receipts for passing the students. The CIT(A) in para 24.2 of the order has given the break-up of the assessed income :

Nature of Addition	Amount (Rs.)
"Passing Receipts"	57,39,000/-
i. Income from arranging admissions (not separately quantified) ii. Household expenditure (Rs.12,00,000/-) iii. Unproved unverifiable expenditure (Rs.44,804/-) iv. Shortcomings in books (not separately quantified)	60,00,000/-
TOTAL INCOME	1,17,39,000/-

In so far as 'passing receipts' to the tune of Rs.57,39,000/- are concerned, the addition has been made from actual quantification of receipts on the basis of seized material. The assessee has not challenged the above quantification of receipts. The assessee in written submissions filed on 26-03-2013 before the authorities below have specifically stated that the estimate of gross amount of Rs.57,39,000/- is not challenged. The assessee has not given the details of the institutions and the persons with whom the amount received for passing students have been shared by the assessee. The assessee has also not given the details of the students and the amount passed on to the institutions. Therefore, in the absence of above information the only inference that can be drawn is that the entire receipts have been retained by the assessee. Therefore, we do not find any merit in the ground No.3 of appeal and the same is dismissed.

32.3 As regards balance Rs.60,00,000/-, the bifurcation given above shows that it has four components (i) income from arranging admissions, which has not been quantified; (ii) shortfall in books, again this component has not been separately quantified; (iii) household expenditure Rs.12,00,000/-. Under this head the CIT(A) has granted relief of Rs.7,00,000/- and we have confirmed the same; and (iv) unverifiable expenditure Rs.44,804/-. The AO had disallowed 20% of the total expenditure. The CIT(A) has upheld the order of AO. However, we have restricted the disallowance to 10% of the total expenditure claimed. With respect to unquantified components, the Ld. Authorised Representative has not substantiated as to why the additions are not sustainable. The additions have been made on the basis of material/documents seized during search action. We do not find any merit in this ground No.2.3 of appeal. Accordingly, the same is dismissed.

33. In ground No.4 of appeal the assessee has prayed for giving the benefit of telescoping on the additions made. We do not find any merit in the ground raised by the assessee. The Ld. Authorised Representative of the assessee has not been able to substantiate as to how telescoping effect can be granted to the assessee on the additions made. Therefore, the ground No.4 raised by the assessee is dismissed.

<u>ITA No.1159/PN/2013 (A.Y. 2007-08) :</u>

34. The assessee has impugned the findings of CIT(A) on following grounds :

> "1. The Commissioner of Income Tax (Appeals) has erred in confirming the addition of Rs. 1.34,05,520=00 to returned income of Rs.16,64,480=00.

Sr.No.	Particulars	Addition by Assessing Officer (Rs.)	Confirmed by CIT(A) (Rs.)	Relief (Rs.)
1	Addition for arranging admission	*39,44,251.00	*39,44,251.00	
2	Addition estimated for passing receipts	82,70,000,00	82,70,000,00	
3	Household expenses	18,00,000.00	18,00,000.00	7,00,000,00
4	Expenses disallowed out of debit to P&L	91,219.00	91,219.00	
	Total	1,41,05,520.00	1,34,05,520.00	

2. WITHOUT PREJUDICE TO GROUND NO.1 ABOVE

2.1 Commissioner (Appeals) - Central has erred in confirming estimate of household expenditure of Rs.18 lakhs thereby an Adhoc addition for Household Expenses of Rs.11,00,000=00 is confirmed. Same may please be deleted.

2.2 Commissioner (A) Central has erred in confirming the disallowance of Rs. 91,269=00 i.e. 20% expenses debited to Profit & Loss Account. Same may please be deleted.

2.3 CIT(A) has erred in not giving any finding/decision on estimate of income of Rs.75,00,000.00 by Assessing Officer against returned income of Rs.16,64,484.00. Appellant prays for deletion of additions (75 lakhs is inclusive of addition for Household expense & disallowance of expenses).

2.4 Commissioner (A) Central has erred in confirming addition of Rs.82,70,000/- alleging Gross Receipt estimated as Appellants income as against small part of it as Assessee's agency commission for arranging for "passing students". (Para 39.1) of the Order). Appellant prays to delete the addition.

2.5 CIT(A) has erred in observing that expenditure is not allowable under explanation to Sec.37(1) of the Act. It may please be held that explanation to Section 37(1) is not applicable to the Assessee.

2.6 While dealing in Ground No.6 before CIT(A) para 39 of the order, there appears to be misunderstanding on appellants submission, Submission relates to estimate of Rs.75,00,000.00 by Assessing Officer and not for passing receipt.

2.7 Without prejudice to ground No.2.4, 2.5 CIT(A) has erred in dismissing without prejudice Ground No.8 before him, on double taxation of part of the amount, i.e. part of the amount assessed in the hands of Mr. Arvind Pandey & also Assessee included in 82,70,000.00. Atleast the same if brought to tax in the hands of Mr. Arvind Pandey. Same be excluded.

3. CIT(A) has erred in dismissing the ground of appellant on Assessing Officer's allegation of fraudulent claim etc. (i.e. ground No.10 before CIT(A).

> 4. Without prejudice and without accepting addition to returned income but if same is upheld, then telescoping effect may please be given.
>
> 5. CIT(A) has erred in dismissing the ground in respect of "allegation by Assessing Officer of fraudulent claim".
>
> 6. Appellant prays for deletion of interest charged u/s.234A from 25-03-2010.
>
> 7. Appellant prays for cancellation of interest charged u/s.234B.
>
> 8. Appellant prays for just and equitable relief.
>
> 9. Appellant prays to add, alter, amend, modify the ground/s to withdraw the same during the appellate proceeding."

35. The additions in A.Y. 2007-08 have been made on similar lines as were made in the A.Y. 2006-07. For the reasons given in A.Y. 2006-07, the ground No.1, 2.1, 2.3, 2.4 and 4 of the appeal are dismissed.

36. The ground No.2.2 of appeal is similar to ground No.2.2 in appeal for A.Y. 2006-07. The CIT(A) has confirmed 20% disallowance of expenditure claimed. We have restricted the disallowance to 10% of the expenditure claimed. Therefore the ground No.2.2 is partly allowed.

36.1 In ground No.2.5, the assessee has assailed the order of CIT(A) on the issue of allowability of expenditure sans explanation to section 37(1). No submissions have been made by the Ld. Authorised Representative in support of this ground. Accordingly, this ground of appeal is dismissed being devoid of merit.

36.2 In ground No.2.6 the assessee has submitted that the CIT(A) has erred in adjudicating the issue raised before him in ground No.6 of the appeal.

The assessee has raised following ground No.6 before the CIT(A).

> "Assessing Officer has erred in making addition and taxing Rs.82,70,000/- under the head "Passing receipts". Same be deleted."

The CIT(A) has adjudicated the ground as follows :

> "39 Ground No.6: This ground is regarding addition of an amount of Rs.82,70,000/- on account of "passing receipts" and corresponds to Ground No.6 for A Y 2006-07. For the present year, however, an additional issue has been raised by the appellant that there was a totalling mistake in the AO's calculation of gross receipts as per Bundle Nos.6 & 7 a summary of which has been made on page-19 of the impugned assessment order. It is contended in this regard that the total is Rs. 27,59,00,000/- and not Rs. 29,84,71,000/-. It is also submitted that these figures are for FY 2007-08, 2008-09 and 2009-10. The appellant has also provided a financial year wise break-up. It is also claimed that there are duplicate entries in the Bundle.
>
> 39.1 The substantive ground challenging the addition on account of "passing receipts" is hereby dismissed for the reasons discussed at length under Ground No.6 for AY 2006-07. As regards the further issues raised regarding totalling error and duplicate entries, the AO is directed to give the appellant an opportunity to demonstrate the existence of errors and reduce the addition made to that extent if the appellant's claims in this regard are found to be correct."

We do not find any error in the ground decided by the CIT(A). The CIT(A) has decided the issue precisely what was raised in the grounds of appeal. We do not find any merit in this ground No.2.6 of appeal of the assessee. Accordingly, the same is dismissed.

36.3 In ground No.2.7, the assessee has prayed that the receipts should not be subject to double taxation, i.e. the amount which has been taxed in the hands of Shri Arvind Janardhan Pandey should not be taxed again in the hands of the assessee.

The Ld. Authorised Representative of the assessee has not brought before us any instance where the addition made in the hands of Shri Arvind Janardhan Pandey is also taxed in the hands of assessee, however, we agree with the contentions of the Ld.

Authorised Representative that the same amount should not be taxed twice in the hands of two persons. Accordingly, we deem it appropriate to remit the issue back to the file of the AO to verify that the amount assessed in the hands of Shri Arvind Janardhan Pandey is not added again in the income of the assessee. The assessee shall specifically highlight the instance(s) where the amount has been taxed twice. The ground No.2.7 in the appeal of the assessee for A.Y. 2007-08 is allowed for statistical purposes.

37. In ground No.5 the assessee has assailed the findings of CIT(A) in upholding the findings of AO in respect of allegation of fraudulent claim of assessee in filing return of income on 25-03-2010 and non-cooperation by assessee.

The CIT(A) dismissed the ground raised in appeal before him for the detailed reasons recorded while deciding the appeal of assessee in A.Y. 2004-05. In Para 4.3 of the order, the CIT(A) has summarised the detailed reasons given by AO to record such findings. For the sake of brevity we are not reproducing the same. Since the assessee has not been able to substantiate his claim either before the lower authorities or before us, we find no infirmity in the order of CIT(A) in affirming the findings of AO. Accordingly, this ground of appeal is dismissed.

38. In ground No.6 & 7 the assessee has assailed charging of interest u/s.234A and 234B. The charging of interest is mandatory and consequential, therefore, there is no merit in the grounds raised in the appeal. Accordingly ground No. 6 & 7 of the appeal are dismissed.

39. In the result, the appeal of the assessee is partly allowed.

ITA No.1160/PN/2013 (A.Y. 2008-09) :

40. The assessee has impugned the findings of CIT(A) on following grounds :

"1. Commissioner Appeals has erred confirming the addition of Rs. 44,47,892/- to Returned income, thereby estimating Total income of Rs.95,44,062/- against Returned income of Rs.50,96,170/-.

Sr.No.	Particulars	Addition by Assessing Officer (Rs.)	Confirmed by CIT(A) (Rs.)	Relief (Rs.)
1	Income from arranging admission	*27,27,685.00	27,27,685.00	
2	Household expenses	21,00,000,00	16,44,062.00	4,55,938.00
3	Unproved expenses	76,145.00	76,145.00	
	Total	49,03,830.00	44,47,892.00	

(* excluding 2 and 3)

2. WITHOUT PREJUDICE TO GROUND NO.1 ABOVE

2.1 Commissioner (A) has erred in restricting the relief of Rs.4,55,938/- out of estimate of Household Expenses of RS.21 Lakhs. Addition made may please be deleted.

2.2 Commissioner (A) has erred in confirming the disallowance of expenses of Rs.76,145/-, i.e. 20% of expenses debited to Profit & Loss A/c. Appellate prays to cancel the disallowance.

2.3 CIT (A) has erred in confirming Assessing Officer's action of rejecting the Books of Accounts & Account Statements.

2.4 CIT (A) has erred in dismissing the ground in respect of Allegation by Assessing Officer of fraudulent claim.

2.5 Appellate prays for just and equitable relief including telescopic.

3. Appellant prays for deletion of interest u/s.234A from 25-03-2010.

4. Appellant prays for cancellation of interest u/s.234B.

5. Appellant prays to add, alter, amend and/or withdraw the ground/s of appeal as occasion may demand, during appellant proceedings."

41. The additions have been made in A.Y. 2008-09 on similar lines as were made in the A.Y. 2006-07. For the detailed reasons given while deciding the appeal of assessee for A.Y. 2006-07, the grounds of appeal No.1, 2.1, 2.3, 2.4, 2.5, 3, 4 and 5 of the assessee are dismissed.

42. The ground of appeal No.2.2 relating to disallowance of expenditure is partly allowed by restricting the disallowance to 10% of the expenditure claimed.

43. In the result the appeal of the assessee is partly accepted.

ITA No.1161/PN/2013 (A.Y. 2009-10) :

44. The assessee has impugned the findings of CIT(A) on following grounds :

"1. Commissioner of Income Tax (Appeals) has erred in confirming additions of Rs.63,89,368/- to returned income of Rs.40,16,632/- :

Sr.No.	Particulars	Addition by Assessing Officer (Rs.)	Confirmed by CIT(A) (Rs.)	Relief (Rs.)
1	Addition on account of arranging admissions	43,18,011/-	43,18,011/-	
2	Household expenses	24,00,000,00	18,06,000.00	5,94,000/-
3	Expenses disallowed 20%	2,65,357/-	2,65,357/-	
	Total	69,83,368/-	69,83,368/-	5,94,000/-

Appellant prays to cancel/delete the additions made.

2. Without prejudice to Ground No.1 above, Appellant prays for just and equitable relief including telescopic.

3. CIT(A) has erred in confirming Assessing Officer's action of rejecting the Books of Accounts and estimate of income. Appellant prays to accept Returned Income as per Accounts.

4. CIT(A) has erred in dismissing the ground relating to allegation by Assessing Officer of fraudulent claim.

5. Appellant prays to cancel the interest charged u/s.234A from 25-03-2010.

6. Appellant prays to cancel the interest u/s.234B, C.

7. Appellant prays to add, alter, amend, modify the ground/s or withdraw the same as occasion may demand"

45. The additions have been made in A.Y. 2009-10 on similar lines as were made in the A.Y. 2007-08. The assessee also raised similar grounds of appeal. For the detailed reasons given while deciding the appeal of assessee for A.Y. 2007-08, the grounds of appeal of the assessee in A.Y. 2009-10 are also dismissed, except the addition made on account of disallowance of expenses. The disallowance of expenses is restricted to 10% of the expenditure claimed by the assessee.

46. The appeal of the assessee is accordingly partly accepted in the aforesaid terms.

ITA No.1162/PN/2013 (A.Y. 2010-11) :

47. The assessee has impugned the findings of CIT(A) on following grounds :

"1. CIT(A) has erred in confirming the estimate income at Rs.1,05,27,100/- thereby confirming the addition of Rs.56,11,710/- to the returned income of Rs.49,15,200/-. Appellant prays to delete the addition/disallowances.

<table>
<tr><th>Particulars</th><th>Addition by Assessing Officer (Rs.)</th><th>Confirmed by CIT(A) (Rs.)</th><th>Relief (Rs.)</th></tr>
<tr><td>Arranging admission</td><td rowspan="4">60,84,710/-</td><td rowspan="4">56,11,710/-</td><td rowspan="4">CIT(A) granted relief only out of household expenditure addition of Rs.4,73,000/-</td></tr>
<tr><td>Household expenses
- Rs.24 lakhs</td></tr>
<tr><td>Unverified expenses (Rs.2,65,357/-)</td></tr>
<tr><td>Shortcoming in books & failure to explain seized material</td></tr>
<tr><td></td><td></td><td></td><td></td></tr>
</table>

2. Without prejudice to ground 1 above.

> a) CIT(A) has erred in confirming the above addition of household expenses of Rs.19,27,000/-. Same may please be cancelled.
>
> b) CIT(A) has erred in confirming the disallowance of 20% of expenses. Said disallowance may please be cancelled.
>
> c) CIT(A) has erred in confirming addition of Rs.15,00,000/- for cash seized, alleging unexplained.
>
> 3. CIT(A) has erred in confirming assessing officer's action of rejection of books of account and estimating income.
>
> 4. Appellant prays for just & equitable relief, including telescoping effect.
>
> 5. CIT(A) has erred in confirming charging of interest u/s.234B, same may please be cancelled.
>
> 6. Appellant prays to add, alter, amend, modify the ground/s of appeal occasion may demand, during appellate proceedings."

48. The additions in A.Y. 2010-11 have been made on similar lines as were made in the A.Y. 2007-08. The assessee has also raised similar grounds of appeal. For the detailed reasons given while deciding the appeal of assessee for A.Y. 2007-08 the ground No.1, 2(a), 2(c), 3 to 6 are dismissed.

49. The ground 2(b) relates to disallowance of unverified expenses. The disallowance is restricted to 10% of the expenses claimed.

50. In the result the appeal of assessee for A.Y. 2010-11 is partly allowed.

ITA Nos.95 to 101/PN/2014 (A.Yrs. 2004-05 to 2010-11) :

51. In these appeals the assessee has assailed the finding of CIT(A) by raising following grounds :

> "1. Commissioner (Appeals) has erred in dismissing the Ground No.4 before him in respect of quantum of income clubbed u/s.64 of the Act.
>
> Appellant prays to restrict the same to income from respective House Property as may be finally assessed in the assessment of Mrs. Neelam Pandey.

2. Commissioner of Income Tax (Appeals) has erred in not considering the submission in respect of 'Karma Property'-Goa (Page 6 & 7) of the order).

Appellant prays to consider the same and grant just & equitable relief.

3. Commissioner of Income Tax (Appeals) has erred in not specifically adjudicating the Ground relating to Computation of interest u/s.234B(3).:

In all the appeals similar grounds have been raised by assessee challenging the order of CIT(A).

52. The assessee is father of Shri Arvind Janardhan Pandey who was engaged in the business of arranging admissions to professional colleges under Management Quota. The assessee had filed his original return of income for A.Y. 2004-05 declaring NIL income. Subsequent to the search in the case of Shri Arvind Janardhan Pandey, notice u/s.153A of the Act was issued to the assessee. Assessments were made in the impugned assessment years u/s.143(3) r.w.s 153A of the Act. The AO in the course of assessment proceedings held that the assessee had purchased immovable properties in the name of his daughter-in-law Smt. Neelam Arvind Pandey and clubbed her income u/s.64(1)(vi) in the income of the assessee. The additions made by the AO in the impugned assessment years on account of clubbing of income is as under :

Asst. Year	Income declared in return filed in pursuance to notice u/s.153A	Addition made by the AO	Relief granted by CIT(A)
2004-05	97,481	1,00,800	--
2005-06	89,867	1,10,880	--
2006-07	67,845	2,41,703	--
2007-08	11,988	1,34,165	--

2008-09	88,675	2,44,697	--
2009-10	(-) 90,14,332	1,42,347	--
2010-11	NIL	20523	--

53. In first appeal the assessee challenged clubbing of income by AO. The CIT(A) confirmed the additions u/s.64(1)(vi) of the Act after considering the written submissions of the assessee and the order passed in the first appeal in the case of Smt. Neelam Pandey. The findings of the CIT(A) are as under :

> "6.4 It is an admitted fact in the present case that the properties were purchased by Mrs. Neelam Pandey, daughter-in-law of the appellant, out of 'gifts' received from the appellant. As regards the estimate of house property income made the Ld. A.O., I have already upheld the same while disposing the relevant ground of appeal raised by her in her individual case. The applicability of 64(1)(vi) in the facts of the case has also not been seriously challenged by the appellant by putting forward any cogent arguments. Rather his contentions are regarding the quantum of income estimated by the Ld. AO in her hands which I have already upheld. Under the circumstances, I do not see any reasons to interfere with the order of the Ld. AO in this respect. Accordingly, these two grounds of appeal are hereby dismissed."

54. We have heard the rival submissions and have perused the record. The Ld. Authorised Representative has not been able to controvert the findings of the CIT(A). In the absence of any contrary material, we do not find any reason to interfere with the findings of the CIT(A) on this issue. Accordingly, ground No.1 raised in all the appeals are dismissed being devoid of any merit.

55. In ground No.2 of the appeals the assessee has challenged the findings of CIT(A) in not considering the submissions in respect of "Karma Property" at Goa.

55.1 In respect of 'Karma Property' the CIT(A) has given his findings in the case of Smt. Neelam Pandey as under :

> "Upon careful of the written submissions and the documentary evidence furnished by the appellant, I am unable to arrive at any definite conclusions with regard to the two properties. In the written

> submissions dated 21-10-2013, which are in respect of A.Y. 2006-07 it is stated that the agreement in respect of flat No.A-2 Karma Classic was entered into on 21-09-2005 whereas in the written submissions dated 23-10-2013 it is stated taht the agreement in respect of this property was entered into on 21-04-2005. A document dated 13-03-2006 has been submitted which is in the nature of a letter issued by the proprietor of the said builder company (Karma Constructions) to his own Site Engineer asking teh latter to hand over possession of the property at A-1, Karma Classis, "Ranghvi Estate", Goa to the appellant. However, this address, i.e. "Ranghvi Estate" is not found anywhere else including the occupancy certificates furnished by the appellant. As regards Flat No.A-2, as per the letter dated 14-12-2005 purportedly written by the appellant to M/s. Karma Constructions, the scheme "Karma Classis" is located in Bogmalo, Goa and whereas as per the occupancy certificate issued by the village panchayat which is claimed by the appellant to be in respect of his project ("Karma Classis") the same is located in Velsao, Pale, Issorcim, P.O. Cansaulim. One more occupancy certificate from the Mormugao Municipal Council, Vaso Da Gama, Goa has been furnished which does not reflect the name or the number of either of the flats but rather shows the name and location of the building as "Karma Empress" Vaddem, Vaso Da Gama, Goa. Moreover, there is nothing to indicate that any of these documents were furnished at the assessment stage before the learned assessing officer. There is also no request from the appellant for admission of additional evidence under R.46A of the Income Tax Rules and under which Sub-rule the same is admissible. Under the circumstances, the material submitted by the appellant in support of his contentions regarding the ownership of the two flats is hereby rejected and the order of the learned assessing officer is upheld."

We observe that the CIT(A) has adjudicated the issue after considering the submissions of the assessee as well as the detailed order passed in the case of Mrs. Neelam Pandey. The Ld. Authorised Representative has not raised any specific objection pointing error in the impugned order while deciding the issue. The assessee has assailed the findings of CIT(A) by raising general objections, which are not sustainable. Accordingly, this ground of appeal No.2 is dismissed being devoid of any merit.

56. In ground No.3 of the appeals the assessee has assailed the computation of interest u/s.234B(3). The contention of the assessee is that wherever original return of income has been filed by the assessee, the interest u/s.234B should be charged on the additional income assessed.

We find merit in the above submission of the Ld.Authorised Representative. Accordingly, we deem it proper to remit this issue back to the file of AO to compute interest u/s.234B in accordance with the provisions of section after considering the original return filed by the assessee. Accordingly, this ground raised in all the appeals of the assessee is allowed for statistical purposes.

57. In the result, the appeals of the assessee are allowed for statistical purposes.

ITA No.108/PN/2014 (A.Y.2006-07) :

58. The only issued raised in this appeal by the assessee is in respect of income from Flat A1 and Flat A2 at "Karma Classic", Goa. In the course of assessment proceedings the AO observed that the above mentioned properties were purchased by Shri Arvind Janardhan Pandey, husband of the assessee in the name of the assessee. Therefore, the income from the aforesaid properties were clubbed with the income of Shri Arvind Janardhan Pandey for the A.Y. 2006-07.

59. During the pendency of the first appeal, the assessee filed some additional documents. The CIT(A) refused to admit those documents as additional evidences, as no formal request was made to admit these new documents as additional evidences. A further perusal of the impugned order show that prima-facie the CIT(A) was not able arrive at a definite conclusion in respect of the above 2 properties at Goa. In the facts and circumstance of the case, we deem if proper to remit the issue back to the file of AO with a direction to consider the documents filed by the assessee before

CIT(A). The AO shall decide this issue denovo, in accordance with law.

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

Order pronounced on Monday, the 29th day of February, 2016.

Sd/-	Sd/-
(**R.K. PANDA**)	(**VIKAS AWASTHY**)
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

पुणे Pune; दिनांक Dated : 29th February, 2016.
सतीश

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. The CIT(A)-II, Pune
4. The CIT-II, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "**बी**" पुणे / DR, ITAT, "B" Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

वरिष्ठ निजी सचिव / Sr. Private Secretary
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