आयकर अपीलीय अधिकरण, मुंबई, "बी" न्यायपीठ मुंबई में।

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, MUMBAI

BEFORE SRI H.L. KARWA, PRESIDENT, AND SHRI N.K.BILLAIYA, AM

आयकर अपील सं./I.T.A. No. 7851/Mum/2010
(निर्धारण वर्ष / Assessment Year : 2005-06)
आयकर अपील सं./I.T.A. No. 7852/Mum/2010
(निर्धारण वर्ष / Assessment Year : 2006-07)

Binayak Tex Processors Ltd. C/O. Shankarlal Jain & Associates, 12,Engineer Building, 265, Princess Street, Mumba-400002	बनाम/ Vs.	DCIT, Central Circle-39, Mumbai
स्थायी लेखा सं./PAN : **AAACB1554D**		
(अपीलार्थी /**Appellant**)	..	(प्रत्यर्थी / **Respondent**)

अपीलार्थी की ओर से/ **Appellant by :**	Shri S.L.Jain
प्रत्यर्थी की ओर से / **Respondent by :**	Shri Pritam Singh

सुनवाई की तारीख /**Date of Hearing** : **10-09-2013**

घोषणा की तारीख /**Date of Pronouncement** : **10-09-2013**

आदेश / O R D E R

PER BENCH:

These two appeal by the assessee are directed against two different orders of the CIT(A)-41, Mumbai, dated 06.10.2010, pertaining to A.Y. 2005-06 and 2006-07 as common issues are involved in both these appeals. They were heard together and disposed of by this common order for the sake convenience and brevity.

2. The sum and substance of the grievance of the assessee is that amount offered for taxation during the survey proceeding have been doubly taxed and therefore relief is sort for the impugned assessment year.

3. Facts of the case as they were during the course of scrutiny assessment proceedings show that the survey operation u/s 133A of the Act was conducted at the business premises on 10.10.2007. During the course of the survey action, assessee surrendered additional income in the hands of the different concerns of the assessee group for different assessment years. In the hands of the assessee income of Rs.56,98,653/- were admitted as undisclosed income relevant to two different assessment years i.e. 2005-06 and 2006-07 which are under consideration. The break up is exhibited at page 2 para 5 of the assessment order for 2005-06. For A.Y.2005-06, the additional income offered was Rs.24,21,989/- and for A.Y. 2006-07 additional income offered was Rs.32,76,664/- total additional income offered was Rs.56,98,653/-. Subsequent to the survey operation search and seizure operation u/s 132 of the Act was carried out on 10.10.2007 at the residential and business premises of the assessee and its associates. In advertently, the assessee offered the entire additional income in its return for A.Y.2006-07. The AO observed that the assessee has not offered the additional income of Rs.24,21,981/- during the assessment year 2005-06 and accordingly made the addition of Rs.24,21,989/-.

4. It is the say of the counsel that this income has been added by mistake in the assessment year 2006-07, wherein it has been taxed accordingly. Therefore, the same amount should not be taxed once again in A.Y.2005-06.

5. We have carefully perused the assessment orders; we find force in the contention of the counsel. It is an undisputed fact that the assessee has offered additional income totaling to Rs.56,98,653/- and it is also not in dispute that out of this 24,21,989/- pertain to A.Y. 2005-06 and Rs.32,76,664/- pertain to A.Y. 2006-07. It is also not in dispute that the assessee has offered the entire additional income of Rs.56,98,653/- in A.Y. 2006-07. These facts are very much apparent from the assessment order.

Therefore, we do not find any reason for taxing Rs.24,21,989/-once again in A.Y. 2005-06. The AO is directed to delete the addition of Rs. 24,21,989/- in A.Y. 2005-06. Appeal of the assessee for A.Y. 2005-06 is allowed and appeal for the A.Y.2006-07 is accordingly dismissed.

6. In the result, appeal filed by the assessee for A.Y.2005-06 is allowed and for A.Y.2006-07 is accordingly dismissed.

Order pronounced in the open court on 10/09/2013

आदेश की घोषणा खुले न्यायालय में दिनांक 10/09/2013, को की गई ।

Sd/-	*Sd/-*
(H.L.KARWA)	(N.K.BILLAIYA)
HON'BLE PRESIDENT	ACCOUNTANT MEMBER

मुंबई Mumbai;

दिनांक /Dated : 10th September, 2013.

Shekhar. P.S.

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT- , Mumbai.
4. आयकर आयुक्त / CIT(A)- , Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / **ITAT, Mumbai**