REPORTABLE

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **ITA 552/2005, ITA 565/2005**
ITA 1191/2007, ITA 139/2008
ITA 466/2008, ITA 537/2008
ITA 408/2003

% *Judgment Reserved on: 05.10.2010*
Judgment Delivered on:29.11.2010

(1) **ITA 552 OF 2005**

COMMISSIONER OF INCOME TAX . . . APPELLANT
Through : Mr.Sanjeev Sabharwal, Sr. Standing Counsel.

VERSUS

M/S VASISTH CHAY VYAPAR LTD. . . .RESPONDENT
Through: Mr. Ajay Vohra, Advocate with Ms. Kavita Jha, Ms. Akansha Aggarwal,Advocates

(2) ITA 565 OF 2005

COMMISSIONER OF INCOME TAX . . . APPELLANT
Through : Mr. Sanjeev Sabharwal, Sr. Standing Counsel

VERSUS

M/S VASISTH CHAY VYAPAR LTD. . . .RESPONDENT
Through: Mr. Ajay Vohra, Advocate with Ms. Kavita Jha, Ms. Akansha Aggarwal,Advocates

(3) ITA 1191/2007

COMMISSIONER OF INCOME TAX . . . APPELLANT
Through : Ms.Prem Lata Bansal, Sr. Standing Counsel.

VERSUS

M/S VASISTH CHAY VYAPAR LTD. . . .RESPONDENT
Through: Mr. Ajay Vohra, Advocate with Ms. Kavita Jha, Ms. Akansha Aggarwal,Advocates

(4) ITA 139/2008

COMMISSIONER OF INCOME TAX . . . APPELLANT

Through : Ms.Prem Lata Bansal, Sr. Standing Counsel.

VERSUS

M/S VASISTH CHAY VYAPAR LTD. . . .RESPONDENT

Through: Mr. Ajay Vohra, Advocate with Ms. Kavita Jha, Ms. Akansha Aggarwal,Advocates

(5) ITA 466/2008

COMMISSIONER OF INCOME TAX . . . APPELLANT

Through : Ms.Prem Lata Bansal, Sr. Standing Counsel.

VERSUS

M/S VASISTH CHAY VYAPAR LTD. . . .RESPONDENT

Through: Mr. Ajay Vohra, Advocate with Ms. Kavita Jha, Ms. Akansha Aggarwal,Advocates

(6) ITA 537/2008

COMMISSIONER OF INCOME TAX . . . APPELLANT

Through : Ms.Prem Lata Bansal, Sr. Standing Counsel.

VERSUS

M/S VASISTH CHAY VYAPAR LTD. . . .RESPONDENT

Through: Mr. Ajay Vohra, Advocate with Ms. Kavita Jha, Ms. Akansha Aggarwal,Advocates

(7) ITA 408/2003

COMMISSIONER OF INCOME TAX . . . APPELLANT

Through : Ms.Prem Lata Bansal, Sr. Standing Counsel.

VERSUS

M/S TED CO. INVESTMENT & FINANCIAL SERVICES (P) LTD. . . .RESPONDENT

Through: Mr. Ajay Vohra, Advocate with Ms. Kavita Jha, Ms. Akansha Aggarwal,Advocates

CORAM :-

HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MS. JUSTICE REVA KHETRAPAL

1. Whether Reporters of Local newspapers may be allowed

to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the Judgment should be reported in the Digest?

A.K. SIKRI,J.

1. The question of law which has been raised in all these appeals, pertaining to different assessment years of the same assessee, is common one.

2. To state in brief, the assessee herein had advanced certain Inter Corporate Deposits (ICD) to M/s Shaw Wallace Company. The interest thereupon could not be received by the assessee for more than six months. The assessee is a Non-Banking Financial Company (NBFC) and, therefore, is bound by the directions given by the Reserve Bank of India. These directions, *inter alia,* mandate a NBFC to declare such advances as Non Performing Assets (NPA) when the accrued interest therein is not paid by the debtor continuously for six months. In these circumstances, treating the said ICD as NPA, the assessee did not show interest income, which according to the assessee was not realizable. The Assessing Officer, however, added the interest as income of the assessee holding that it had "accrued" to the assessee even if it was not actually realized as the assessee was following mercantile system of accounting. The CIT (A) affirmed the order of the Assessing Officer. However, the ITAT has deleted the aforesaid interest income.

3. In this backdrop, the question raised is as to whether the ITAT erred in law and on merits by deleting the additions of income made

as interest earned/acquired on the loan advanced to M/s Shaw Wallace by considering the interest as doubtful and unrealizable.

4. Now the facts in detail.

5. The lower authorities held that the provisions of the Reserve Bank of India Act, 1934 read with NBFCs Prudential Norms (Reserve Bank) Directions, 1998 could not override the provisions of the Income-Tax Act, 1961 where under the amount of interest was, according to the lower authorities, taxable under the accrual system of accounting. This stand of the assessee was not accepted by the Assessing Officer or the CIT (A) as noted above. According to them interest income had accrued to the assessee under the provisions of the Income Tax Act as is clear from the reading of Section 5 of the Act. It was their view that the provisions of Reserve Bank of India Act, 1934 or the directions of the RBI issued under the said Act could not over ride the provisions of Income Tax Act wherein the amount of interest was taxable under the accruable system of accounting. The Income-Tax Appellate Tribunal, on the other hand, has taken the view that the provisions of Section 45Q of the RBI Act overriding the provisions of the Income-Tax Act. The action of the respondent in not crediting income from the loan advanced to Shaw Wallace, following the RBI Act and the Prudential Norms issued thereunder, was correct and in accordance with law. The Tribunal accordingly held that in terms of Section 145 of the Act, no addition could be made in the hands of the respondent in respect of such unrealized interest when the loan/ICD was admittedly NPA.

6. Learned counsel for the Revenue referred to the judgment of the Supreme Court in the case of ***Southern Technologies Ltd.*** *Vs.*

Joint Commissioner of Income-Tax, *320 ITR 577* and on that basis he argued that in so far as liability of Income Tax is concerned, the same was governed by the Income-Tax Act and merely because for accounting purposes, the respondent assessee was to follow the RBI guidelines, it would not mean that the assessee was not liable to show the interest income when it had "accrued" to the assessee under the mercantile system and exigible to tax under the Act.

7. Mr. Vohra, learned counsel appearing for the assessee countered the aforesaid submission with all the vehemence at his command and sought to justify the orders of the Tribunal. His first and foremost submission was that as per the provisions of Section 45Q of the RBI Act, interest income in respect of NPA are to be recognized in terms of the Prudential Norms. He took support from the judgment of the Apex Court in ***TRO*** *Vs.* ***Custodian, Special Court Act, 1934,*** *293 ITR 369* wherein it was held that where an Act makes a provision with non-obstante clause that would override the provisions of all other Acts. In addition, he referred to the judgment of Gujarat High Court in the case of ***Barkha Investment And Trading Company (Private Ltd.*** *Vs.* ***CIT,*** *281 ITR 31,* that of Uttrakhand High Court in the case of ***CIT*** *Vs.* ***Nainital Bank Ltd.,*** *309 ITR 335* and Madras High Court in the case of ***CIT*** *Vs.* ***Elgi Finance Ltd.*** *293 ITR 357.*

8. Placing heavy reliance upon ***Elgi Finance*** (supra), his submission was that almost identical controversy was considered in the said decision. In that case the assessee company was engaged in the business of leasing, finance and hire purchase. On the ground

that in the profit and loss account of the previous year and in the memo of the total income prepared for income-tax purpose for the year in question, the assessee had not admitted the interest accrued on a transaction in respect of hire purchase, leasing, bill discounting, short term loan etc., the Assessing Officer proposed to bring the accrued interest on those terms to tax as income of the assessee relating to that assessment year. The assessee explained that as it was an NBFC, those assets were to be treated as non-performing assets in terms of the guidelines issued by the RBI and income pertaining thereto was not to be considered as income. The Assessing Officer did not accept the submission and held that as the assessee company was following mercantile system of accounting, both the income as well as the expenditure had to be accounted on accrual basis. The appeal of the assessee was dismissed by the CIT (A). On further appeal by the assessee, the Tribunal was of the view that the lower authorities had erred in treating the interest on NPAs as income of the assessee company for the relevant assessment year and hence directed the Assessing Officer to delete the said interest from the computation of the taxable income and allowed the appeal filed by the assessee. On the aforesaid facts, the Madras High court held that no interest could be said to have accrued on loans doubtful of recovery which were classified as NPAs. Mr. Vohra also pointed out that the Supreme Court by order dated 12th January, 2009 in CC No. 29 of 2009 titled ***CIT*** *Vs.* ***KICM Investment Ltd.*** *310 ITR 4* dismissed the Special Leave Petition filed by the Department against the decision of the Calcutta High Court, whereby the High Court affirmed the order of the Tribunal holding that interest on non-

performing asset was not includible in the total income of the assessee on accrual basis, even though the assessee was following mercantile system of accounting. Mr. Vohra endeavoured to distinguish the judgment of the Supreme Court in the case of ***Southern Technology*** (supra).

9. Another submission of Mr. Vohra was that in any case no income by way of interest accrued on the Inter Corporate Deposits even under mercantile system of accounting could be subjected to tax. The basis of this submission was that in view of the following and undisputed facts, no income can be said to accrue to the assessee:-

(a) The assessee had offered interest income on the ICD on accrual basis during the previous years relevant to assessment years 1995-96 and 1996-97.

(b) Such interest had not been received by the respondent assessee.

(c) The respondent assessee had not accounted for interest in the revised accounts for assessment years 1998-99 and 1999-2000, pursuant to being registered as NBFC.

(d) No interest was accounted by the respondent assessee in the succeeding assessment years as well.

(e) No interest was received by the assessee on the ICD until assessment year 2006-07.

(f) Shaw Wallace was passing through adverse financial crisis and there were winding up petitions pending against the said company in the court.

10. He argued that income chargeable under the head "profit and gains of business or profession" has to be determined as per the method of accounting consistently followed by an assessee.

11. Predicated on the provisions of Section 145 (1) of the Income Tax Act as well as Section 209 and 211 of the Companies Act, his submission was that as per these provisions, it was incumbent upon the assessee to confirm the mandatory accounting methods and following those standards, the system of accounting consistently followed by the assessee was in conformity with those accounting standards which, *inter alia,* provided not to treat interest on ICD due from Shaw Wallace, in view of uncertainty of ultimate collection of interest due to the tight and precarious financial position of the borrowers. He specifically referred to the account system-9 (AS-9) of Institute of Chartered Accountants of India (ICAI) in this behalf. His further submission was that the courts have held that even under the accrual system of accounting it is illusory to take credit for interest where the principal itself is doubtful of recovery. The Punjab & Haryana High Court in the case of ***CIT*** Vs. ***Ferozepur Finance (P) Ltd.***, *124 ITR 619* held that unless income accrued, there could be no tax liability and that even in mercantile system of accountancy, an assessee could forgo the whole or part of a debt, which was irrecoverable, and the same could not be added to the income of the assessee. The Court, referring to the decision of the Apex Court in the case of ***Shoorji Vallabhdas,*** *46 ITR 144****,*** observed as under:**-**

> "A reading of the aforesaid passage clearly shows that income-tax is levied on income, whether mercantile system of accountancy is maintained or on cash basis. If income does not result at all, there cannot be levy of tax. It was further held

> that even if an entry of hypothetical income is made in the books of account, but if the income does not result at all, when there is neither accrual nor receipt of income, no tax can be levied."

The Supreme Court had dismissed the Department's Special Leave Petition in this case vide SLP (Civil) No. 8158 of 1981 {144 ITR (St.) 50}.

12. The aforesaid principle was reiterated in the later judgment of the Madras High Court in the case of ***CIT*** Vs. ***Motor Credit Co. (P) Ltd.*** *127 ITR 572* wherein the Court held as under:-

> "Regular mode of accounting only determines the mode of computing taxable income and the point of time at which the tax liability is attracted. It cannot determine or effect the range of taxable income to the ambit of taxation. Where no income has resulted, it cannot be said that income has accrued merely on the ground that the assessee has been following the mercantile system of accounting. Even if the assessee makes a debit entry to that effect, still no income can be said to have accrued to the assessee. If no income has to materialised there can be no liability to tax a hypothetical income. It is not the hypothetical accrual of income based on the mercantile system of accounting followed by the assessee that has to be taken into account but, what should be considered is, whether the income has really materialised or resulted to the assessee. The question whether real income has materialised to the assessee has to be considered with reference to commercial and business realities of the situation in which the assessee has been placed and not with reference to the system of accounting".
>
> .....
>
> "The mercantile system of accounting can be only relevant only to determine the point of time at which tax liability is attracted and it cannot be relied on to determine whether income has, in fact, resulted or materialised in favour of the assessee merely because the assessee has been maintaining his accounts on the basis of mercantile system of accounting, the interest income on the outstanding in the two firms cannot be held to have accrued at the end of the

> accounting year. Viewed against the background of commercial business realities of the situation in which the assessee was placed, the Tribunal came to the conclusion that it would be very unrealistic on the part of the assessee to take credit for a highly illusory interest. The Tribunal was fully justified in arriving at this conclusion."

In this case too, the Supreme Court has dismissed the Revenue's Special Leave Petition vide SLP (Civil) 2806 of 1981 (149 ITR (St.) 93).

13. He argued that the Courts have also recognized the theory of "real income" and held that notwithstanding that an assessee may be following the mercantile system of accounting, the assessee could only be taxed on real income and not any hypothetical/illusory income. In this behalf he referred to the following case law:-

(i) ***UCO Bank*** *Vs*. **CIT,** 237 ITR 889 (SC)
(ii) ***CIT*** Vs. ***Shoorji Vallabhdas and Co***. 46 ITR 144 (SC)
(iii) ***Godhra Electricity Co Ltd***. Vs. ***CIT*** 225 ITR 746

14. He also countered that applying the aforesaid principles, this Court has held that interest on sticky loans, where recovery of the principal was doubtful, could not be said to have accrued even under the mercantile system of accounting and, accordingly, such notional interest could not be taxed as income of the assessee. It was so held in the following cases:-

(i) ***CIT*** Vs***. Goyal M.G. Gases (P) Ltd***. 303, ITR 159
(ii) ***CIT*** Vs***. Eicher Ltd.*** ITA No. 431/2009 dt. 15.7.2009

Mr. Vohra thus pleaded that the order of the Tribunal should not be interfered with.

15. We have considered the respective submissions in proper their perspective. Before we embark on the discussion on these

arguments, it would be useful to extract the relevant provisions of the RBI Act and NBFCs Prudential Norms (Reserve Bank) Directions 1998. Section 45Q of the RBI Act, which starts with non-obstante Clause, reads as under:-

> **"Chapter IIIB to override other laws.**
>
> 45Q. The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law".

16. It is not in dispute that on the application of the aforesaid provisions of the RBI and the directions, the ICD advanced to M/s Shaw Wallace by the assessee herein had become NPA. It is also not in dispute that the assessee company being NBFC is bound by the aforesaid provisions. Therefore, under the aforesaid provisions, it was mandatory on the part of the assessee not to recognize the interest on the ICD as income having regard to the recognized accounting principles. The accounting principles which the assessee is indubitably bound to follow are AS-9. Relevant portion of the said accounting stand reads as under:-

> 9. **Effect of Uncertainties on Revenue Recognition**
> 9.1 Recognition of revenue requires that revenue is measurable and that at the time of sale or the rendering of the service it would not be unreasonable to expect ultimate collection.
> 9.2 Where the ability to assess the ultimate collection with reasonable certainty is lacking at the time of raising any claim, e.g., for escalation of price, export incentives, interest etc., revenue recognition is postponed to the extent of uncertainty involved. In such cases, it may be appropriate to recognize revenue only when it is reasonably certain that the ultimate collection will be made. Where there is no uncertainty as to ultimate collection, revenue is recognized at the

time of sale or rendering of service even though payments are made by installments.

9.3 When the uncertainty relating to collectability arises subsequent to the time of sale or the rendering of the service, it is more appropriate to make a separate provision to reflect the uncertainty rather than to adjust the amount of revenue originally recorded.

9.4 An essential criterion for the recognition of revenue is that the consideration receivable for the sale of goods, the rendering of services or from the use of others of enterprise resources is reasonably determinable. When such consideration is not determinable within reasonable limits, the recognition of revenue is postponed.

9.5 When recognition of revenue is postponed due to the effect of uncertainties, it is considered as revenue of the period in which it is properly recognized."

17. In this scenario, we have to examine the strength in the submission of learned counsel for the Revenue that whether it can still be held that income in the form of interest though not received had still accrued to the assessee under the provisions of Income Tax Act and was, therefore, exigible to tax. Our answer is in the negative and we give the following reasons in support:-

(1) First of all we would discuss the matter in the light of the provisions of Income Tax Act and to examine as to whether in the given circumstances, interest income has accrued to the assessee. It is stated at the cost of repetition that admitted position is that the assessee had not received any interest on the said ICD placed with Shaw Wallce since the assessment year 1996-97 as it had become NPAs in accordance with the Prudential norms which was entered in the books of accounts as

well. The assessee has further successfully demonstrated that even in the succeeding assessment years, no interest was received and the position remained the same until the assessment years 2006-07. Reason was adverse financial circumstances and the financial crunch faced by Shaw Wallace. So much so, it was facing winding up petitions which were filed by many creditors. These circumstances, led to an uncertainty in so far as recovery of interest was concerned, as a result of the aforesaid precarious financial position of Shaw Wallace. What to talk of interest, even the principal amount itself had become doubtful to recover. In this scenario it was legitimate move to infer that interest income thereupon has not "accrued". We are in agreement with the submission of Mr. Vohra on this count, supported by various decisions of different High Courts including this court which has already been referred to above.

(2) In the instant case, the assessee company being NBFC is governed by the provisions of RBI Act. In such a case, interest income cannot be said to have accrued to the assessee having regard to the provisions of section 45Q of the RBI and Prudential Norms issued by the RBI in exercise

of its statutory powers. As per these norms, the ICD had become NPA and on such NPA where the interest was not received and possibility of recovery was almost nil, it could not be treated to have been accrued in favour of the assessee.

18. As noted above, Mr. Sabharwal, argued that the case of the assessee was to be dealt with for the purpose of taxability as per the provisions of the Act and not the RBI Act which was the accounting method that the assessee was supposed to follow. We have already held that even under the Income Tax Act, interest income had not accrued. Moreover, this submission of Mr. Sabharwal is based entirely on the judgment of the Supreme Court in the case of ***Southern Technology*** (supra). No doubt, in first blush, reading of the judgment gives an indication that the Court has held that RBI Act does not override the provisions of the Income Tax Act. However, when we examine the issue involved therein minutely and deeply in the context in which that had arisen and certain observations of the Apex Court contained in that very judgment, we find that the proposition advanced by Mr. Sabharwal may not be entirely correct. In the case before the Supreme Court, the assessee a NBFC debited ₹ 81,68,516 as provision against NPA in the profit and loss account, which was claimed as deduction in terms of Section 36 (1) (vii) of the Act. The assessing officer did not allow the deduction claimed as aforesaid on the ground that the provision of NPA was not in the nature of expenditure or loss but more in the nature of a reserve, and thus not deductible under section 36(i) (vii)

of the Act. The assessing officer, however, did not bring to tax ₹ 20,34,605 as income (being income accrued under the mercantile system of accounting). The dispute before the Apex court centered around deductibility of provision for NPA. After analyzing the provisions of the RBI Act, their Lordships of the Apex Court observed that in so far as the permissible deductions or exclusions under the Act are concerned, the same are admissible only if such deductions/exclusions satisfy the relevant conditions stipulated therefor under the Act. To that extent, it was observed that the Prudential Norms do not override the provisions of the Act. However, the Apex Court made a distinction with regard to “Income Recognition” and held that income had to be recognized in terms of the Prudential Norms, even though the same deviated from mercantile system of accounting and/or section 45 of the Income Tax Act. It can be said, therefore, that the Apex Court approved the ‘real income’ theory which is engrained in the Prudential Norms for recognition of revenue by NBFC. The following passage from the judgment of the Apex Court would bring out the distinction noticed by the Apex Court between permissible deductions/exclusions, on the one hand, and income recognition on the other:-

> “31. Before concluding on this point, we need to emphasise that the 1998 Directions has nothing to do with the accounting treatment or taxability of "income" under the IT Act. The two, viz., IT Act and the 1998 Directions operate in different fields. As stated above, under the mercantile system of accounting, interest / hire charges income accrues with time. In such cases, interest is charged and debited to the account of the borrower as "income" is recognized under accrual system. However, it is not so recognized under the 1998 Directions and, therefore, in the matter of its Presentation under the said Directions, there would be an add back but not

under the IT Act necessarily. It is important to note that collectability is different from accrual. Hence, in each case, the assessee has to prove, as has happened in this case with regard to the sum of Rs. 20,34,605/-, that interest is not recognized or taken into account due to uncertainty in collection of the income. It is for the assessing officer to accept the claim of the assessee under the IT Act or not to accept it in which case there will be add back even under real income theory as explained hereinbelow".

38. The point to be noted is that the IT Act is a tax on "real income", i.e., the profits arrived at on commercial principles subject to the provisions of the IT Act. Therefore, if by Explanation to Section 36(1)(vii) a provision for doubtful debt is kept out of the ambit of the bad debt which is written off then, one has to take into account the said Explanation in computation of total income under the IT Act failing which one cannot ascertain the real profits. This is where the concept of "add back" comes in. In our view, a provision for NPA debited to P&L Account under the 1998 Directions is only a notional expense and, therefore, there would be add back to that extent in the computation of total income under the IT Act.

39. One of the contentions raised on behalf of NBFC before us was that in this case there is no scope for "add back" of the Provision against NPA to the taxable income of the assessee. We find no merit in this contention. Under the IT Act, the charge is on Profits and Gains, not on gross receipts (which, however, has Profits embedded in it). Therefore, subject to the requirements of the IT Act, profits to be assessed under the IT Act have got to be Real Profits which have to be computed on ordinary principles of commercial accounting. In other words, profits have got to be computed after deducting Losses/ Expenses incurred for business, even though such losses/ expenses may not be admissible under Sections 30 to 43D of the IT Act, unless such Losses/ Expenses are expressly or by necessary implication disallowed by the Act. Therefore, even applying the theory of Real Income, a debit which is expressly disallowed by Explanation to Section 36(1)(vii), if claimed, has got to be added back to the total income of the assessee because the said Act seeks to tax the "real income" which is income computed according to ordinary commercial principles but subject to the provisions of the IT Act. Under Section 36(1)(vii) read with the Explanation, a "write off" is a

condition for allowance. If "real profit" is to be computed one needs to take into account the concept of "write off" in contradistinction to the "provision for doubtful debt".

Applicability of Section 145

40. At the outset, we may state that in essence RBI Directions 1998 are Prudential/ Provisioning Norms issued by RBI under Chapter IIIB of the RBI Act, 1934. These Norms deal essentially with Income Recognition. They force the NBFCs to disclose the amount of NPA in their financial accounts. They force the NBFCs to reflect "true and correct" profits. By virtue of Section 45Q, an overriding effect is given to the Directions 1998 vis-a-vis "income recognition" principles in the Companies Act, 1956. These Directions constitute a code by itself. However, these Directions 1998 and the IT Act operate in different areas. These Directions 1998 have nothing to do with computation of taxable income. These Directions cannot overrule the "permissible deductions" or "their exclusion" under the IT Act. The inconsistency between these Directions and Companies Act is only in the matter of Income Recognition and presentation of Financial Statements. The Accounting Policies adopted by an NBFC cannot determine the taxable income. It is well settled that the Accounting Policies followed by a company can be changed unless the AO comes to the conclusion that such change would result in understatement of profits. However, here is the case where the AO has to follow the RBI Directions 1998 in view of Section 45Q of the RBI Act. Hence, as far as Income Recognition is concerned, Section 145 of the IT Act has no role to play in the present dispute."

19. We have also noticed the other line of cases wherein the Supreme Court itself has held that when there is a provision in other enactment which contains a non-obstante clause, that would override the provisions of Income Tax Act. ***TRO*** *Vs.* ***Custodian, Special Court Act*** *(supra)* is one such case apart from other cases of different High Courts. When the judgment of the Supreme Court in ***Southern Technology*** *(supra)* is read in manner we have read,

it becomes easy to reconcile the ratio of ***Southern Technology*** with ***TRO*** *Vs.* ***Custodian, Special Court Act***.

20. Thus viewed from any angle, the decision of the Tribunal appears to be correct in law. The question of law is thus decided against the Revenue and in favour of the assessee. As a result, all these appeals are dismissed.

(A.K. SIKRI)
JUDGE

(REVA KHETRAPAL)
JUDGE

NOVEMBER 29, 2010
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