आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
' D' BENCH : CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं
श्री चंद्र पूजारी, लेखा सदस्य के समक्ष।

[BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER]

आयकर अपील सं./I.T.A.Nos.2772 & 2773/Mds/2014

निर्धारण वर्ष /Assessment years : 2005-06 & 2006-2007.

M/s. M.R.M. Plantations P. Ltd, No.40, M.R.M Arcade, Amman Sannathi Street, Karaikudi **[PAN AACCM 9058R]** **(अपीलार्थी/Appellant)**	**Vs.**	The Deputy Commissioner of Income Tax, Circle II, Madurai **(प्रत्यर्थी/Respondent)**

आयकर अपील सं./I.T.A.Nos. 2946, 2947 & 2948/Mds/2014

निर्धारण वर्ष /Assessment years : 2005-06, 2006-07 & 2007-08.

The Deputy Commissioner of Income Tax, Circle II, Madurai **(अपीलार्थी/Appellant)**	**Vs.**	M/s. M.R.M. Plantations P. Ltd, No.40, M.R.M Arcade, Amman Sannathi Street, Karaikudi **[PAN AACCM 9058R]** **(प्रत्यर्थी/Respondent)**

Assessee by : Shri. T.N. Seetharaman, Advocate
Department by : Shri. P. Radhakrishnan, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing : 30-09-2015
घोषणा की तारीख /Date of Pronouncement : 09-10-2015

आदेश / O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER

The ITA Nos.2772 & 2773/Mds/2014 are filed by the assessee and ITA Nos.2946, 2947 & 2948/Mds2014 are filed by the Department. All these appeals are directed against the different orders of the Commissioner of Income Tax (Appeals)-I, Madurai, dated 25.09.2014 for the above assessment years.

2. First we take up ITA No.2947/Mds/2014 for adjudication. The Department has raised the following grounds:-

> *''2. The CIT(A) erred in holding that the AO has not made out a case that there was a permanent establishment in India in regard to carrying on the business of plantations in Malaysia.*
>
> *3. The CIT(A) failed to note that the reason for assessing the income stated by the AO was ''The assessee is a company registered in India under the Companies Act and is therefore, resident, as per section 6(3); Annual report and Directors report stated that the assessee company has its branch in Malaysia and the control and, management of the affairs of the Malaysian Branch is situated in India as the Share Holders and Annual General Meeting were conducted in India; the income of the Malaysian Branch is included in the accounts of the company and the profits appropriated.*
>
> *4. The CIT(A) ought to have noted that the Apex Court's decision in the case of CIT vs. P.V.A. Kulandagan Chettiar (267 ITR 657) is not applicable to the present case since the control and management of the affairs of the*

Malaysian Branch of the assessee is situated in India as the Share Holders and Annual General Meeting were conducted in India".

3. The facts of the case are that the assessee filed its return of income for the AY 2006-07 on 21.11.2006 declaring a total income of ₹13,77,120/-. The return was processed u/s 143(1)(a) on 15.02.2008. As income chargeable to tax has escaped assessment, proceedings u/s 147 was initiated by issue of notice u/s 148 dt. 22.03.2012. The reasons for initiating proceedings u/s 147 are reproduced below:

During the course of assessment proceedings for the AY 2007-08, the expenditure claimed against the interest income was disallowed on the ground that the interest income had to be assessed under the head "Income from other sources". Since the company did not have any other business income, the expenditure did not qualify for deduction u/s.57.

Similarly, on verification of miscellaneous records for the AY 2006-07, it has been found that the assessee is in receipt of only interest income against which they have claimed expenditure of ₹13,54,443/- which is not allowable.

Further, on verification of statement of income, it has been found that the income from Malaysian Branch amounting to ₹55, 92,897/- is not included in the total income for the purpose of taxation in India. The case law CIT vs.PVRM Kulandayan Chettiar [267 ITR 657] is not applicable in the instant case for the following reasons.

a) *The assessee is a company registered in India under the Companies Act and is therefore, a resident, as per section 6(3).*

b) *Annual report and Directors report stated that the assessee company has its branch in Malaysia and the control and management of the affairs of the Malaysian Branch is situate in India as the share holders and annual general meeting were conducted in India.*

c) *The income of the Malaysian branch is included in the accounts of the company and profits appropriated.*

In view of the above, the Assessing Officer had reasons to believe that income to the tune of ₹69,47,340/- has escaped assessment. Accordingly assessment was computed interalia taxing the Malaysian plantation. Aggrieved, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals).

4. The Commissioner of Income Tax (Appeals) upheld the assessment. Further, he observed that in view of the judgment of Supreme Court in the case of *CIT vs. PVRM Kulandayan Chettiar 267 ITR 654, p*lantation income received from Malaysian cannot be taxed in India. Against this, the Revenue is in appeal before us.

5. We have heard both the sides and perused the material on record. Admittedly, a similar issue was considered by the Supreme Court in the case of *PVRM Kulandayan Chettiar (*cited supra) wherein it was held that business income arising out of rubber plantations in Malaysia cannot be taxed in India because of closer economic relations

between the assessee and Malaysia which determines the fiscal domicle of the assessee in terms of Article 4 of the DTAA between India and Malaysia; Being so, the Assessing Officer not justified in treating the assessee having permanent establishment in India. In Article 5(2)(g) the term ''permanent establishment" shall include especially ''a farm or plantation".

6. In this case, the plantation in Malaysia would be the permanent establishment through which the business is carried on by the assessee and applying the test of permanent establishment the income from the plantation would be taxable only in Malaysia and not in India. The assessee already filed its return of income and the return filed for all these assessment years which was kept in record. Accordingly, in our opinion the order of the Commissioner of Income Tax (Appeals) is to be confirmed. This appeal of the Revenue is dismissed.

ITA No.2773/Mds/2014, assessment year 206-2007, (Assessee Appeal)

7. In this appeal, the first ground raised by the assessee is with regard to disallowance of expenditure at ₹43,35,061/- and according to the assessee the said amount was incurred by the Malaysain branch of the company and the expenditure incurred by the

head office of the company at Chennai was ₹15,65,918/- only which is allowable as income from business/other sources**.**

8. The facts relating to the issue are that the Assessing Officer observed that in the profit and loss account for the year ended 2006-07, the assessee received interest income from bank and others and dividend receipt of ₹12,70,603/-. From the interest income and dividend receipts, the assessee has claimed major expenses as under:-

Salary and Bonus	:	₹11,61,594/-
Managing Director Remuneration and Commission	:	₹14,06,799/-
Vehicle Maintenance	:	₹ 2,15,908/-
Postage & Telephone expenses	:	₹ 1,12,743/-
Travelling Expenses	:	₹ 2,81,078/-
Rates and Taxes	:	₹ 32,860/-
Repairs & Maintenance	:	₹ 34,150/-
Income tax paid	:	₹10,89,929/-
Total	:	₹43,35,061/-

The Assessing Officer held that as the interest income from banks is to be taxed as income from other sources, the above expenses cannot be claimed as per Sec.57 of the I.T. Act. The Assessing Officer also held that the assessee has no known business activity in India. Hence, the Assessing Officer disallowed the expenses to the tune of ₹43,35,061/- and computed accordingly. Aggrieved, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals). The

Commissioner of Income Tax (Appeals) confirmed the order of the Assessing Officer. Against this, the assessee is in appeal before us.

9. We have heard both the sides and perused the material on record. Under section 57 only expenditure incurred in connection with earning of income was allowable as deduction. The assessee admitted that the entire income is by way of interest from the bank deposits. It was seen that the expenditure made by the assessee towards salary, remuneration, commission, building maintenance etc, these expenses have no nexus with earning of interest on bank deposits and cannot be allowed as deduction u/s.57 of the Act. Further, the assessee made a plea before us that expenditure at head office at ₹15,65,918/- instead of ₹43,35,061/-. In our opinion, the Assessing Officer already brought on record the total expenditure at ₹43,35,061/- as recorded in earlier para. Being so, the contention of assessee counsel is devoid of merit as it is not based on any evidences. Accordingly, this ground of the appeal of the assessee is rejected.

10. The next ground raised by the assessee is that the Commissioner of Income Tax (Appeals) erred in upholding the addition of ₹8,04,623/- made by the Assessing Officer being 'exchange rate fluctuation' brought to charge by the Assessing Officer without any discussion or assigning reasons in the assessment order.

11. The facts of the issue are that the Assessing Officer noted that the assessee received ₹8,04,623/- on account of exchange rate fluctuation which was not offered as income. The Assessing Officer proceeded to tax ₹8,04,623/- as income of the assessee. Aggrieved, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals).

12. The Commissioner of Income Tax (Appeals) observed that the assessee had earned ₹8,04,623/- due to exchange rate fluctuation. Gain due to exchange rate on the foreign exchange held on revenue account is to be treated as income. During appeal proceedings, the assessee had not adduced any argument as to why the gain is not income except arguing that the Assessing Officer had added ₹8,04,623/- without reason. The Commissioner of Income Tax (Appeals) confirmed the order of the Assessing Officer. Against this, the assessee is in appeal before us.

13. The ld. Authorised Representative for assessee submitted that the sum of ₹8,06,423/- was shown in the profit and loss account for the year ended 31st March, 2006 with the narration "Amount adjusted for the purposes of finalizing the balance between the head office and the branch owing to fluctuation in foreign exchange" and is a mere notional entry made for the purpose of equalizing the balance

between the head office and the Malaysian branch office. The assessee further submitted that the sum of ₹8,06,423/- was a notional amount and not a gain real terms, being an accounting entry relating to the assessee's own branch in Malaysia which cannot result in any income.

14. The ld. Departmental Representative relied on the orders of the lower authorities.

15. We have heard both the sides and perused the material on record. The assessee admittedly received the above amount on account of exchange rate fluctuation which is revenue receipt and the same to be liable to be taxed and it cannot be considered as notional entry Accordingly, this ground of the appeal of the assessee is dismissed.

In the result, the assessee of the appeal in ITA No.2773/Mds/2014 is dismissed.

ITA No.2946/Mds/2014, assessment year 2005-2006 (Department appeal)

16. The issue in this appeal is identical which was considered in ITA No.2773/Mds/2014 for the assessment year 2006-2007,. Applying the above ratio, this appeal of the Revenue is also dismissed.

ITA No.2772/Mds/2014, assessment year 2005-2006 (assessee appeal):

17. The grounds in this appeal is similar to the grounds in ITA No.2773/Mds/2014 for the assessment year 2006-2007 and there is only change in amount of disallowance. Applying the ratio laid in ITA No.2773/Mds/2014, this appeal of the assessee is dismissed.

ITA No.2948/Mds/2014, assessment year 2007-08 (Department appeal):

18. In this appeal, the department has filed revised grounds of appeal as under:-

> 1. The order of the learned Commissioner of Income tax (Appeals)-I, Madurai is opposed to law on the facts and in the circumstances of the case.
>
> 2.1 The learned Commissioner of Income tax (Appeals) has erred in holding that the proceedings for the re-opening of the assessment u/s 147 of the IT Act, 1961 in the assessee's case for the assessment year 2007~08 are; invalid.
>
> 2.2 The learned Commissioner (Appeals) has also erred in holding that re-visiting of the same issue which was considered in the original assessment with a different meaning for initiating proceedings u/s 147 amounts to change of opinion.
>
> 2.3 The learned Commissioner (Appeals) has failed to note that the provisions of clauses (b) and (c) of the

Explanation (2) to section 147 are clearly applicable in the assessee's case for the assessment year 2007-08 under consideration because the assessee. had deliberately kept away the income of Malaysian Plantation from Indian Taxation laws when the company affairs are controlled in India.

2.4 The learned Commissioner (Appeals) has failed to appreciate that the assessee's total income for the assessment year 2007-08 had been under assessed in the original assessment order dated 22.12.2009, inter alia to an extent of RS.9841036/- being income from Plantation from Malaysia which was not earlier included to the total income of the assessee company in the said original assessment thereby attracting application of provisions of clause © of Explanation (2) to section 147 of the. Income tax Act, 1961 i.e "where an assessment has been made but income chargeable to tax has been under assessed".

2.5 The learned Commissioner (Appeals) ought to have noted the fact that the assessee had deliberately kept away the income from plantation in Malaysia treating it as not forming part of total income by quoting the Hon'ble Supreme Court decision of CIT Vs P.V.Kulandayan Chettiar whereas the ratio of the said decision is not applicable to the assessee's case.

2.6 It is respectfully submitted that even if the assessee's contention that the assessee had furnished all the details at the time of original scrutiny assessment u/s 143(3) were to be considered, Explanation (1) to section 147 of the Act which is reproduced below may kindly be taken note of :-

> "Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing provision" i.e proviso 1 of section 147).

2.7 This issue of jurisdiction to reopen assessment u/s 147

by the Assessing Officer is reiterated in many cases by the Supreme Court for mere production of evidence before the Assessing Officer is not enough that there may be omission or failure to make a true and full disclosure by the assessee, if some material for the assessment lay embedded in the evidence which the revenue could have uncovered but did not, then, it is the duty of the assessee to bring it to the notice of the assessing authority because the assessee knows all the material and relevant facts if the Assessing Officer might not. But if there is omission to disclose material facts, the Assessing Officer has jurisdiction to reopen the assessment. This decision was taken in the following cases by the Supreme Court.

1. Indo-Aden Salt Mfg. & Trading Co. Vs CIT(SC) 159 ITR 124
2. Hazi Amir Moh. Mir Ahmed Vs CIT, Amritsar (SC) 110 ITR 630

3. ITO I Ward, Distt. VI Calcutta & others Vs Lakhmani Mewal Das (SC) 103 ITR 437

4. Malegon Electricity Co. P. Ltd vs. CIT , Bombay (SC) 78 ITR 466.

5. Calcutta Discount Co. Ltd vs. ITO, Companies Dist I Calcutta and another (SC) 41 ITR 191.

In this case, on verification of statement of income by the Assessing Officer, it has been found that the income from Malaysian Branch amounting to ₹55,92,897/- was not included in the return of income filed by the assessee. From the annual and director's report, it was observed by the Assessing Officer that the control and management of the affairs of the Malaysian Branch was situated in India as the share holders and the annual general meeting was conducted in India. As there is omission or failure to make a true and full disclosure by the assessee, the Assessing Officer has a valid reason to believe that income has escaped assessment for the A.Y. 2007-2008 in respect of this case.

2.8 The learned Commissioner (Appeals) ought to have upheld the reopening of assessment u/s.147 for the

assessment year 2007-2008.

19. The facts of the case are that the assessee filed its return of income for the AY 2007-08 on 23.110.2007 declaring a total income of ₹10,13,510/-. The return was processed u/s 143(1)(a). The case was selected for scrutiny and assessment u/s.143(3) was completed on 22.12.2009 raising the demand of ₹6,01,419/-. As income chargeable to tax has escaped assessment, proceedings u/s 147 was initiated by issue of notice u/s 148 dt. 22.03.2012. The reasons for initiating proceedings u/s 147 are reproduced below:

> *During the course of assessment proceedings for the AY 2007-08, the expenditure claimed against the interest income was disallowed on the ground that the interest income had to be assessed under the head "Income from other sources". Since the company did not have any other business income, the expenditure did not qualify for deduction u/s.57.*
>
> *Similarly, on verification of miscellaneous records for the AY 2006-07, it has been found that the assessee is in receipt of only interest income against which they have claimed expenditure of ₹13,54,443/- which is not allowable.*
>
> *Further, on verification of statement of income, it has been found that the income from Malaysian Branch amounting to ₹55, 92,897/- is not included in the total income for the purpose of taxation in India. The case law CIT vs.PVRM Kulandayan Chettiar [267 ITR 657] is not applicable in the instant case for the following reasons.*

a)The assessee is a company registered in India under the Companies Act and is therefore, a resident, as per section 6(3).

b)Annual report and Directors report stated that the assessee company has its branch in Malaysia and the control and management of the affairs of the Malaysian Branch is situate in India as the share holders and annual general meeting were conducted in India.

c)The income of the Malaysian branch is included in the accounts of the company and profits appropriated.

In view of the above, the Assessing Officer had the reasons to believe that income to the tune of ₹98,41,036/- has escaped assessment. Accordingly assessment was computed interalia the Malaysian plantation. Aggrieved, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals).

20. The Commissioner of Income Tax (Appeals) observed that the gist of the argument is that original assessment was completed u/s.143(3) and the same issue was examined and a finding was given by the Assessing Officer. The reopening the same issue with a different interpretation would amount to change of opinion. The Commissioner of Income Tax (Appeals) placed reliance on the order of the Tribunal in assessee's own case in ITA No.2326/Mds/2012, dated

05.07.2013 for the assessment year 2004-2005, wherein it was held as under:-

> *16. So far as income from Malaysian Branch is concerned, the Assessing Officer in the assesemnt order has considered the MD's salary and commission of Malaysian Branch and examined the issue and came to the conclusion that the income of Malaysian Branch is an exempt income and therefore, commission paid to the MD is not allowable and accordingly disallowed the same. It means the Assessing Officer has examined the issue and applied his mind. Therefore, reopening of assessment again on the same issue is not permissible under law. In the case of Kelvintor of India Ltd (supra) the Hon'ble Supreme Court has observed that ''after 1st April, 1989, the Assessing Officer has power to reopen the assessment under section 147 provided the Assessing Officer has reasons to believe that income has escaped assessment and there is no tangible material to come a conclusion that there is an escapement of income. Mere change of opinion cannot per se to be reason to reopening'.*

> *17. In the present case, the Assessing Officer, having considered entire material and after applying the mind, completed assessment t under section 143(3) of the Act. Thereafter, a notice under section 148 was issued on 24.03.2011 i.e. after four years and reopened the assessment. In our opinion, the Assessing Officer has reopened the assessment is change of opinion, which is not permissible under law. Therefore, the reopening is invalid.*

The Commissioner of Income Tax (Appeals) observed that reopening is invalid. Against this, the Revenue is in appeal before us.

21. We have heard both the sides and perused the material on record. The issue in this case is squarely covered by the order of the Tribunal in assessee's own case in ITA No.2326/Mds/2012 & ITA 233/Mds/2013, dated 05.07.2013 for the assessment year 2004-05 wherein the Tribunal annulled reassessment observed as follows:-

16. So far as income from Malaysian Branch is concerned, the Assessing Officer in the assessment order has considered the MD's salary and commission of Malaysian Branch and has examined the issue and came to the conclusion that the income of Malaysian Branch is an exempt income and therefore, commission paid to the MD is not allowable and accordingly disallowed the same. It means, the Assessing Officer has examined the issue and applied his mind. Therefore, reopening of assessment again on the same issue is not permissible under law. In the case of Kelvinator of India Ltd. (supra), the Hon'ble Supreme Court has observed that "after 1st April, 1989, the Assessing Officer has power to reopen the assessment under section 147 provided the Assessing Officer has reasons to believe that income has escaped assessment and there is no tangible material to com a conclusion that there is an escapement of income. Mere change of opinion cannot per se to be reason to reopening".

17. In the present case, the Assessing Officer, having considered entire material and after applying the mind, completed assessment under section 143(3) of the Act. Thereafter, a notice under section 148 was issued on 24.03.2011 i.e. after four years and reopened the assessment. In our opinion, the Assessing Officer has reopened the assessment is change of opinion, which is not permissible under law. Therefore, the reopening is invalid.

18. Apart from the above, in the present case, the Assessing Officer has issued a notice under section 148 after four years; therefore, proviso to section 147 is applicable to assessee's case. In this context, certain judicial precedence needs to be considered to decide the issue. In the case of ***Fenner (India) Ltd. v. DCIT 241 ITR 672****, the Hon'ble Jurisdictional High Court has observed that in order to reopen an assessment after expiry of four years from the end of the relevant assessment year, the Assessing Officer must summarily record his reasonable belief that income has escaped assessment, but also default on failure of the assessee to disclose fully and truly all the materials facts. Notice issued under section 148 after expiry of four years cannot be sustained as escapement of income, if any, not on account of any failure on the part of the assessee to disclose material facts fully and truly. The Hon'ble Jurisdictional High Court in the case of* ***CIT v. Elgi Finance Ltd. [286 ITR 674]*** *has observed that " the assessee company having truly and fully disclosed all material facts necessary for working out the quantum of depreciation, notice under section 148 issued after expiry of four years from the end of relevant assessment year to withdraw the excess depreciation allowed to the assessee is barred by limitation and illegal". The Hon'ble Jurisdictional High Court has further observed that "the law relating to reassessment has undergone to a change from 01.04.1989. The change was*

brought by Direct Tax Law (Amendment) Act, 1987. Two sets of provisions are available under section 147 in clause (a) and clause (b). This distinction has now been taken away by the Amendment Act. Previously, the line of distinction was a limitation period of four years and the limitation period exceeding four years. The Assessing Officer would reopen a back assessment within a period of four years as long as he had reason to believe in consequence of any information, that income has been under assessed or income has escaped assessment. In the case of limitation, providing for a period exceeding four years, there should have been a failure on the part of the assessee to disclose fully and truly all material facts leading to the escapement of income. But, as a result of the amendment brought with effect from 01.04.1989, the above distinction had been obliterated and the Assessing Officer could reassess the income as long as he had reason to believe that income chargeable had escaped assessment. The new law has inserted a proviso to section 147 in the following words:

> *"Providing that where an assessment under sub-section (3) of section 143 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any income chargeable to tax had escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148 or to disclose fully and truly all material facts necessary for his assessment for that assessment year."*

19. In addition to the time limits provided for under section 149, the law has provided another limitation of four years under the proviso to section 147. As far as the above proviso to section 147 is concerned, the law prescribes a period of four years to initiate reassessment proceedings, unless the income alleged to have escaped assessment was made out as a result of failure on the part of the assessee to disclose fully and truly all material facts necessary for the assessment. The Hon'ble Jurisdictional High Court has further observed that in cases where the initiation of the proceedings is beyond the period of four years from the end of the assessment year, the Assessing Officer was necessarily record not only his reasonable belief that income has escaped assessment but also the default or failure on the part of the assessee. Failure to do so would vitiate the notice and the entire proceedings. Mere

escape of income is insufficient to justify the initiation of action after the expiry of four years from the end of the assessment year. Such escapement must be by reason of the failure on the part of the assessee either to file a return referred to in the proviso or to truly and fully disclose the material facts necessary for the assessment.

20. In the present case, the notice under section 148 was issued after four years. There is no specific finding by the Assessing Officer in the reasons recorded as extracted from the assessment order that the assessee failed to disclose fully and truly all the particulars required to complete the assessment. Therefore, we find that the notice issued under section 148 is not valid.

21. In similar circumstances, the Hon'ble Bombay High Court in the case of ***Hindustan Lever Ltd. v. ACIT (268 ITR 332)*** *has observed that "reasons recorded by the Assessing Officer nowhere stating that there was a failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment and, reopening of assessment made under section 143(3), after expiry of four years from the end of the relevant assessment was not valid.*

22. In ***Sadbhav Engineering Ltd. v. DCIT (333 ITR 483)****, the Hon'ble Gujarat High Court has observed that in the absence of any averment that the assessment is sought to be reopened by reason of failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment for the relevant assessment year, the very initiation of proceedings under section 147 by issuance of notice under section 148 after expiry of four years from the end of relevant assessment year is bad and cannot be sustained.*

23. In view of the above and taking into consideration of the facts and circumstances of the case, the issuance of notice under section 148 after expiry of four years from the end of relevant assessment year is bad and cannot be sustained and the ground raised by the assessee is allowed.

24. So far as Revenue's appeal is concerned, once the reopening of assessment is decided as bad and not valid, it is not necessary to decide the issues on merits. Therefore, the appeal filed by the Revenue is dismissed.

Accordingly, we uphold the findings of the Commissioner of Income Tax (Appeals) for this assessment year also. The other grounds raised

by the Revenue are only academic and require no adjudication in view of quashing of assessment. This ground of the appeal of the Revenue is dismissed.

22. In the results, the appeals of the assessee in ITA Nos.2772 &2773/Mds/2014 are dismissed and the appeals of the Revenue in ITA Nos. 2946, 2947 & 2948/Mds/2014 are also dismissed.

Order pronounced on Friday, the 9th day of October, 2015, at Chennai.

Sd/-	Sd/-
(एन.आर.एस. गणेशन))	**(चंद्र पूजारी)**
(N.R.S. GANESAN)	**(CHANDRA POOJARI)**
न्यायिक सदस्य/JUDICIAL MEMBER	**लेखा सदस्य /ACCOUNTANT MEMBER**

चेन्नई/Chennai
दिनांक/Dated:09.10.2015
KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant	3. आयकर आयुक्त (अपील)/CIT(A)	5. विभागीय प्रतिनिधि/DR
2. प्रत्यर्थी/Respondent	4. आयकर आयुक्त/CIT	6. गार्ड फाईल/GF