

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

ITA.No. 119 of 1999 ()

AGAINST THE ORDER IN ITA 386/COCH/1995 of I.T.A. TRIBUNAL, COCHIN BENCH
DATED 16-04-1999

APPELLANT(S):

THE COMMISSIONER OF INCOME TAX,
THIRUVANANTHAPURAM.

BY ADVS. SRI. P. K. R. MENON (SR.), SR. COUNSEL FOR IT
SRI. GEORGE K. GEORGE, SC FOR IT

RESPONDENT(S):

M/S. KERALA KAUMUDI (P) LTD.,
THIRUVANANTHAPURAM.

R, BY ADV. SRI. M. PATHROSE MATTHAI (SR.)
R, BY ADV. SRI. SAJI VARGHESE

THIS INCOME TAX APPEAL HAVING BEEN FINALLY HEARD ON 29-07-2015,
ALONG WITH I.T.A. 124/99 AND CONNECTED CASES, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

APPENDIX IN ITA.119/99

APPELLANT'S EXHIBITS:

ANNEXURE A: TRUE COPY OF THE ORDER OF THE ASSESSING OFFICER DATED 24.3.1993.

ANNEXURE B: TRUE COPY OF THE ORDER OF THE CIT (APPEALS) DATED 28.2.1995.

ANNEXURE C: TRUE COPY OF THE ORDER OF THE APPELLATE TRIBUNAL DATED 16.4.1999.

/True copy/

PS to Judge

C.R.

ANTONY DOMINIC & SHAJI P. CHALY, JJ.

I.T.A.Nos.119 & 124 of 1999
and 10 & 14 of 2000

Dated this the 29th day of July, 2015

JUDGMENT

Antony Dominic, J.

- 1.The captioned appeals are filed by the Revenue, aggrieved by the orders of the Income Tax Appellate Tribunal, Cochin Bench in ITA.Nos.386/95, 387/95, 620/95 and 679/95 respectively, concerning the assessment years 1990-91, 1991-92, 1992-93 and 1993-94 respectively.
- 2.The respondent assessee is a company which is publishing the newspaper 'Kerala Kaumudi'. The assessee is following mercantile system of accounting. However, as far as sales of newspaper and advertisement revenue are concerned, the assessee was following cash system of accounting. Returns were filed during the assessment years in question. Taking the view that the assessee, having adopted mercantile system of accounting, cannot adopt accounting on cash basis as regards the sale of newspaper and advertisement charges, the assessing

officer made additions and completed the assessment. Appeals filed by the assessee before the Commissioner of Income Tax (Appeals) were allowed partly. Further appeals filed by the assessee were allowed by the Tribunal and the assessing officer was directed to revise the assessments. It is in this background, the Revenue has filed these appeals.

3. The questions of law framed in these appeals being common, those framed in ITA.119/99, filed in relation to the order passed for the assessment year 1990-91, are extracted below:

"1. Whether, on the facts and in the circumstances of the case and in the absence of a finding that there was no difficulty in ascertaining the correct income for the assessment years 1990-91 and 1991-92, the Tribunal is right in law and fact in interfering with the assessment of the advertisement charges and the newspaper sales on mercantile basis?

2. Whether, on the facts and in the circumstances of the case and admittedly when "other incomes and expenses are accounted on the mercantile system" will not the assessment of advertisement charges and the newspaper sales on cash system

result in difficulty for the assessing officer in ascertaining the correct income?

3. Whether, on the facts and in the peculiar circumstances of the case the assessee is entitled to have different system of accounting considering the incomes and the head under which the income is assessed?

4. Whether, on the facts and in the circumstances of the case the Tribunal is justified in finding in the present case that "in respect of the earlier years there was no difficulty in ascertaining the correct income" and is not the finding wrong, unreasonable unsupported by any material and evidence and hence vitiated and without jurisdiction?

5. Whether, on the facts and in the circumstances of the case when the Tribunal is considering the appeal for the assessment years 1990-91 and 91-92, does the Tribunal have jurisdiction much less evidence (unless there is a finding in the appeal for the earlier year) to find that "in the present case in respect of the earlier years there was no difficulty in ascertaining the correct income" and is not the finding in the circumstances of the case wrong based on surmises and conjectures?

6. Whether, on the facts and in the circumstances of the case and in the light of the findings that the

assessee had not maintained log books in respect of the vehicles and in the absence of evidence that the telephones were used exclusively for business purpose the Tribunal is right in law and fact in interfering with the disallowance made by the Officer?"

4. We heard learned senior standing counsel for the Revenue and the learned senior counsel appearing for the respondent assessee.

5. In sum and substance, the contention raised by the learned senior counsel for the Revenue is that the assessee having adopted mercantile system of accounting, it cannot adopt accounting on cash basis in respect of sales of newspaper and advertisement revenue alone. In other words, according to the Revenue, in respect of all the activities of the assessee, the accounting of income and expenditure should be under the same system. This contention was sought to be substantiated relying on the judgments of the Apex Court in Keshav Mills Ltd. v. Commissioner of Income Tax, Bombay [(1953) 23 ITR

230] and G.Padmanabha Chettiar & Sons v. Commissioner of Income Tax [(1990) 182 ITR 1].

6.On the other hand, learned senior counsel appearing for the respondent assessee contended that having regard to the provisions of section 145 of the Income Tax Act, 1961, as it stood at the relevant time, the assessee was entitled to adopt either the mercantile system or the cash system or hybrid system. In support, he placed reliance on the judgment of the Apex Court in United Commercial Bank v. Commissioner of Income Tax [(1999) 240 ITR 355] and this Court in Commissioner of Income Tax v. Geo Tech Construction Corporation [(1996) 221 ITR 164]. Learned senior counsel also placed reliance on the judgments of the Apex Court in UCO Bank v. Commissioner of Income Tax [(1999) 237 ITR 889] and of the Gujarat High Court in Commissioner of Income Tax v. Ganga Charity Trust Fund [(1986) 162 ITR 612].

7.We have considered the submissions made by both sides. Before we deal with the contentions raised by both sides on the merits of the controversy, at the

outset, we may state that dispute regarding accounting of newspaper sales and advertisement charges on cash basis, which is the subject matter in these appeals, had been the subject matter of adjudication by the Tribunal on earlier occasions. Dispute arising out of similar assessment orders passed for the assessment years 1977-78, 1978-79 and 1979-80 were adjudicated by the Tribunal and the system of accounting adopted by the assessee was upheld. This has been stated in paragraph 5 of the order of the Tribunal, which reads thus:

"5. Admittedly, the issue relating to the accounting of the newspaper sales and the advertisement charges had been considered by the Tribunal in respect of the earlier years. The Tribunal considered the issue for the first time in respect of the assessment years 1977-78 and 1978-79 in the order in ITA Nos.240 & 241 (Coch)/84 dated 29.8.1986. In that order the Tribunal observed- "On merits also the appeals have to be dismissed because we have examined the system of accounting followed by the assessee in respect of advertisement receipts and we are satisfied that the assessee is consistently following cash system of accounting for the advertisement charges and followed the same system for the assessment year

under consideration. The I.T.O. is not correct in stating that the assessee has suddenly changed its system of accounting with reference to the advertisement receipts." That order was followed by the Tribunal for the subsequent years also. Similarly, the issue regarding newspaper sales was considered by the Tribunal for the first time for the assessment year 1983-84 and held that the assessee was adopting a cash system of accounting. Reference application filed by the department for the assessment years 1977-78, 1978-79 and 1979-80 were dismissed by the Tribunal by the order in RA Nos.362 to 364 (Coch)/86 dated 25.9.1987. The decision of the Tribunal was accepted by the department evident from the letter C.No.406 RA (1)/20/T/Jcd1/86-87 dated 17.8.1990 from the CIT, Trivandrum addressed to the assessee. It can also be seen from the letter C.No.403/242/J/91-92 dated 15.6.1992 from the CIT, Trivandrum that the decision of the CIT (Appeals) on this point in favour of the assessee in ITA No.58T/91-92 dated 9.10.1991 was accepted by the department."

8. It is also seen from this order that the same controversy was repeated in the assessment years 1980-81 and 1981-82, when also, the appeals filed by the assessee before the Commissioner (Appeals) were allowed and which orders were affirmed by the

Tribunal in ITA. 507 & 508(Coch)/85 as per order dated 27.3.1991. These findings in the order of the Tribunal, therefore, confirms that the system of accounting adopted by the assessee, viz., accounting on cash basis, was confirmed by the Tribunal in the previous assessment years and the orders of the Tribunal were accepted by the Department. Accordingly, assessments were completed in the subsequent assessment years until the issue was again raised in the assessment years in question.

9.It is true, as contended for the Revenue, in the proceedings under the IT Act, principles of res judicata and estoppel are inapplicable and as held by the Apex Court in its judgment in Totcorin Alkali Chemicals & Fertilizers Ltd. Madras v. Commissioner of Income Tax, Madras [227 ITR 172], acceptance of the method of accounting even for long number of years cannot be treated as sanctioned by law, still, consistency is the hallmark of any system of governance and is required to be maintained by the Income Tax Department also. This is all the more so in a case where the very issue has been decided by

the Tribunal and which order has attained finality and was accepted by the Department also. In Radhasami Satsang v. Commissioner of Income Tax [193 ITR 321], the Supreme Court had occasion to consider the question of applicability of the principles of res judicata to income tax proceedings. This judgment has been followed by the Apex Court in its subsequent judgment in Municipal Corporation of City of Thane v. Vidyut Metallics Ltd. [(2007) 8 SCC 688]. In Radhasami Satsang (supra), the Supreme Court considered the issue and held thus:

"We are aware of the fact that strictly speaking res judicata does not apply to income tax proceedings. Again, each assessment year being a unit, what is decided in one year may not apply in the following year but where a fundamental aspect permeating through the different assessment years has been found as a fact one way or the other and parties have allowed that position to be sustained by not challenging the order, it would not be at all appropriate to allow the position to be changed in a subsequent year, (unless there was) any material change justifying the Revenue to take a different view of the matter."

10. Referring to this judgment and various other authorities and answering the very same contention, the Apex Court, in its judgment in Bharat Sanchar Nigam Limited v. Commissioner of Income Tax [282 ITR 273] summarised the legal position thus:

"The decisions cited have uniformly held that res judicata does not apply in matters pertaining to tax for different assessment years because res judicata applies to debar courts from entertaining issues on the same cause of action whereas the cause of action for each assessment year is distinct. The courts will generally adopt an earlier pronouncement of the law or a conclusion of fact unless there is a new ground urged or a material change in the factual position. The reason why the courts have held parties to the opinion expressed in a decision in one assessment year to the same opinion in a subsequent year is not because of any principle of res judicata but because of the theory of precedent or the precedential value of the earlier pronouncement. Where facts and law in a subsequent assessment year are the same, no authority whether quasi-judicial or judicial can generally be permitted to take a different view. This mandate is subject only to the usual gateways of distinguishing the earlier decision or where the earlier decision is per incuriam. However, these are fetters only on a coordinate Bench which, failing the possibility of availing of either of these

gateways, may yet differ with the view expressed and refer the matter to a Bench of superior strength or in some cases to a Bench of superior jurisdiction."

11. Admittedly, the orders passed by the Tribunal were in respect of previous assessment years and going by the principles laid down in the judgments referred to above, each assessment year is a separate unit and therefore, an order passed for one assessment year does not operate as res judicata in the succeeding assessment years. However, the issue resolved by the Tribunal and which was accepted by the Department on the basis of which assessments were also finalised in the succeeding assessment years as well, is attempted now to be re-opened. That departure is possible only if the exemptions pointed out in the aforesaid judgments are in existence. For that purpose, the Assessing Officer has mainly relied on the judgment of the Calcutta High Court in Commissioner of Income Tax v. UCO Bank [200 ITR 68] and reference is also made to State Bank of Travancore v. Commissioner of Income Tax [(1986) 158 ITR 102]. In so far as the UCO Bank (supra) is concerned, that judgment has been

overruled by the Apex Court in United Commercial Bank v. Commissioner of Income Tax [(1999) 240 ITR 355]. The judgment in the case of State Bank of Travancore (supra) was not followed by the Apex Court itself in its judgment in UCO Bank v. Commissioner of Income Tax [(1999) 237 ITR 889]. Therefore, these later judgments of the Apex Court render the very basis on which the Assessing Officer has proceeded non-existent.

12.As we have already stated, the method of accounting on cash basis which is now objected by the Revenue has been upheld by the Tribunal in its orders and these orders of the Tribunal have become final and were accepted and acted upon by the Revenue. This, therefore, shows that the fundamental aspect permeating through the assessment orders is the system of accounting on cash basis adopted by the assessee and which has been found by the Tribunal in favour of the assessee. The parties have also allowed that position to be sustained by not challenging the order. In such a case, as held by the Apex Court in Radhasami Satsang (supra) and Bharat Sanchar Nigam

Limited (supra), it would not at all be appropriate to allow the position to be changed in subsequent years.

13. Such being the situation, in our view, it was not open to the Income Tax Officer or the Commissioner of Income Tax (Appeals) to have ignored the binding orders of the Tribunal and to complete the assessments in the manner it has been done. Further, the Revenue has no case that the accounting disabled it from quantifying the taxable income or that the Tribunal's orders in the previous years are vitiated for any illegality. Therefore, we are in complete agreement with the senior counsel for the assessee that the view taken by the Tribunal in these cases, which is consistent with the orders passed by it for the previous assessment years, deserves to be upheld.

14. Turning to the merits, as we have already stated, the short question raised is whether the assessee is entitled to maintain the accounts regarding the sales of newspaper and advertisement charges on cash basis, instead of mercantile basis adopted by it in respect

of its other areas of operation. Section 145 of the IT Act provides for method of accounting. Prior to its substitution by Finance Act, 1997, section 145 (1) provided that “income chargeable under the head “Profits and gains of business or profession” or “Income from other sources” shall be computed in accordance with the method of accounting regularly employed by the assessee. Therefore, section 145 of the IT Act gave liberty to the assessee to compute income chargeable under the heads mentioned in the section in accordance with the method of accounting regularly employed by the assessee itself. However, with the substitution of the section by the Finance Act, 1997, it has been made mandatory that the said computation shall be in accordance with either cash or mercantile system of accounting regularly employed by the assessee.

15. The concept of mercantile system of accounting and cash system has been explained by the Apex Court in its judgment in Keshav Mills Ltd. v. Commissioner of Income Tax, Bombay [(1953) 23 ITR 230]. In this judgment, it was held that the mercantile system of

accounting or what is otherwise known as the double entry system is opposite to cash system of book keeping under which a record is kept for actual receipts and actual cash payments, entries being made only when money is actually collected and disbursed. It is also stated that mercantile system brings into credit what is due, immediately it becomes legally due and before it is actually received and it brings into debit expenditure the amount for which a legal liability has been incurred before it is actually disbursed. In mercantile system, the profits or gains of the business which are thus credited are not realised but having been earned are treated as received though in fact there is nothing more than an accrual or arising of the profits at that stage.

16. It has been held in Bhagwandas Jagdishprasad & Co. v. Commissioner of Income Tax [(1983) 144 ITR 845] that an assessee may employ different methods of accounting for different sources of income, or one method of accounting for one part of his business or one class of customers and a different method for another part of his business or another class of

customers. It is also held that if he employs such different methods regularly and consistently, the profits would have to be computed in accordance with the respective methods.

17. Having thus seen the difference between the mercantile system and cash system and also the liberty that an assessee has in opting for the system of accounting he regularly adopts, we shall now address the controversy raised before us.

18. As we have already seen, the issue raised is whether the assessee having opted for mercantile system of accounting in respect of its activities, could have adopted cash system in respect of sale of newspaper and advertisement charges. A reading of the assessment orders show that the assessing officer held this issue against the assessee mainly relying on the judgment of the Calcutta High court in Commissioner of Income Tax v. UCO Bank [200 ITR 68]. This judgment, as rightly pointed out by the learned counsel for the assessee, has since been overruled by the Apex Court in its judgment in United Commercial

Bank v. Commissioner of Income Tax [(1999) 240 ITR 355]. In that judgment, referring to the judgment in Investment Ltd. v. Commissioner of Income Tax [(1970) 77 ITR 533], the Apex Court held that a method of accounting adopted by the trader consistently and regularly cannot be discarded by the departmental authorities on the view that he should have adopted a different method of accounting and that the method of accounting regularly employed may be discarded only if, in the opinion of the taxing authorities, income of the trader cannot be properly deduced therefrom.

19. In United Commercial Bank (supra), one of the contentions raised by the learned counsel for the Revenue and noticed at page 362 of the report is that since the assessee had finalised his accounts as per the statutory provisions, thereafter, it is not permissible to adopt for income tax purposes a method different from the one on the basis of which the final accounts were prepared. This contention was sought to be substantiated by relying on the judgment in State Bank of Travancore v. Commissioner of

Income Tax [(1986) 158 ITR 102]. The Apex Court has specifically held that the contention does not have any substance and has finally concluded thus:

"Hence for the purpose of income tax whichever method is adopted by the assessee a true picture of the profits and gains, that is to say, the real income is to be disclosed. For determining the real income, the entries in a balance sheet require to be maintained in the statutory form, may not be decisive or conclusive. In such cases, it is open to the income Tax Officer as well as the assessee to point out the true and proper income while submitting income tax return."

20. Thereafter, the principles were summarised thus:

"From the decisions discussed above, it can be held:

(1) That for valuing the closing stock, it is open to the assessee to value it at the cost or market value, whichever is lower;

(2) In the balance-sheet, if the securities and shares are valued at cost but from that no firm conclusion can be drawn. A taxpayer is free to employ for the purpose of his trade, his own method of keeping accounts and for that purpose,

to value stock-in-trade either at cost or market price.

(3) A method of accounting adopted by the taxpayer consistently and regularly cannot be discarded by the departmental authorities on the view that he should have adopted a different method of keeping accounts or of valuation.

(4) The concept of real income is certainly applicable in judging whether there has been income or not, but, in every case, it must be applied with care and within their recognised limits.

(5) Whether the income has really accrued or arisen to the assessee must be judged in the light of the reality of the situation.

(6) Under section 145 of the Act, in a case where accounts are correct and complete but the method employed is such that in the opinion of the Income-tax Officer, the income cannot be properly deduced therefrom, the computation shall be made in such manner and on such basis as the Income-tax Officer may determine."

21. Again at page 367, the Apex Court held thus:

"In our view, as stated above, consistently for 30 years, the assessee was valuing the stock-in-trade at cost for the purpose of statutory balance sheet, and for the income-tax return, valuation was at cost or market value, whichever was lower. That practice was accepted by the

Department and there was no justifiable reason for not accepting the same. Preparation of the balance-sheet in accordance with the statutory provision would not disentitle the assessee in submitting his income-tax return on the real taxable income in accordance with the method of accounting adopted by the assessee consistently and regularly."

22. Learned senior counsel for the assessee invited our attention to the Division Bench judgment of this Court in Commissioner of Income Tax v. Geo Tech Construction Corporation [(1996) 221 ITR 164]. That was the case of a contractor whose system of accounting showed that the receipts were accounted on cash basis and expenses on mercantile basis. In this judgment, upholding the system of accounting of the assessee and recognising the liberty available to an assessee to maintain the hybrid system of accounting, the Division Bench held thus:

"The accounting process is the individual function of the assessee to know his position of accounts and in this context if it is found that the assessee has maintained accounts according to his system, may be based on convenience to adopt one

known system, it has always been understood that the assessee who maintains his own accounts has the liberty to employ his system for the purpose of maintaining accounts in respect of his transactions. The courts and even those engaged in the ancillary field have sought to introduce and stamp labours in regard thereto and, as is common, a ready phrase from the field of horticulture gets introduced to describe such system as a hybrid system of accounting, really leading to one fundamental fact of life that account consciousness gets reflected in the process of system of keeping accounts which have to be understood and appreciated in the context of the person or assessee concerned."

23. Reading of this judgment also shows that the Division Bench had distinguished the judgment of the Madras High Court in G. Padmanabha Chettiar and Sons v. Commissioner of Income Tax [(1990) 182 ITR 1], which was relied on by the learned standing counsel for the Revenue, in order to substantiate the contention that the assessee cannot be permitted to adopt the hybrid system of accounting. Similarly, this Court has also referred to the judgment of the Apex Court in Commissioner of Income Tax v. Central India Industries Ltd. (1971) 82 ITR 555], which

contained the undisputed principle that no one gets a vested right in an erroneous order.

24. The other judgment of the Apex Court relied on by the counsel for the assessee is UCO Bank v. Commissioner of Income Tax [(1999) 237 ITR 889]. Reading of this judgment shows that the Apex Court declined to follow the judgment in State Bank of Travancore (supra), which again was relied on by the assessing officer. This was a case where the appellant, which had adopted mercantile system of accounting, had credited amounts by way of interest to suspense account since recovery of the said amount was doubtful. On that basis, the assessee excluded the said amount from computing the total income. Though the Commissioner of Income Tax held the exclusion to be erroneous, the Tribunal allowed the appeal of the assessee. The matter went to the High Court and the High Court answered the reference in favour of the Revenue, following the judgment in State Bank of Travancore (supra). The appeal filed by the assessee was considered by the Apex court and the judgment shows that a mixed method of accounting

was followed in as much as the assessee had made credit to the suspense account as mentioned above. In this judgment, approving the mixed system of accounting adopted by the assessee, the Apex Court held that the very fact that the assessee, although generally adopted the mercantile system of accounting, keeps such interest amounts in a suspense account and does not bring these amounts to the Profit and Loss account, goes to show that the assessee was following a mixed system of accounting by which such interest is included in its income only when it is actually received.

25. The judgment of Gujarat High court in Commissioner of Income Tax v. Ganga Charity Trust Fund [(1986) 162 ITR 612] was also relied on by the counsel for the assessee. This judgment shows that though the assessee had initially followed the mercantile system of accounting for the assessment year 1972-73, it had switched over to accounting on cash basis. Approving this, the Gujarat High Court held thus:

"On the second question regarding the change of system of accounting, we find that when the assessee-trust experienced difficulty in the assessment year 1971-72, because of non-receipt of income from interest from two parties with which it had placed its funds by way of deposits, it decided to switch over to cash system of accounting, so that it may not be required to pay income-tax on notional income as on earlier occasions. There is nothing in the Act which precludes the assessee, who bona fide desires to switch over to another system of accounting, from doing so. There is no finding of fact that the switch over to the cash system of accounting in the previous year relevant to the assessment year 1972-73 was not bona fide. Besides, it is not shown by the Revenue that this change lacked durability or regularity and was merely a stop-gap arrangement to avoid payment of tax. In such fact situation, we fail to understand, why a bona fide assessee should be precluded from switching over to another system of accounting which he finds convenient and which would reflect his real income. In CIT v. Rajasthan Investment Co. (P) Ltd. [1978] 113 ITR 294, the Calcutta High Court held that on the Tribunal's finding that the change in the method of accounting of the assessee was bona fide and in keeping with the real state of affairs of its business, the change in the method of accounting was proper and permissible. In Reform Flour Mills P. Ltd. v.

CIT [1978] 114 ITR 227, the Calcutta High Court held that it was open to a taxpayer to adjust his own affairs in such a way that his tax liability may be reduced, provided the means employed are lawful. It further held that section 145(1) of the Act does not place any embargo on the assessee's right to alter the method of accounting. In other words, according to their Lordships, the assessee was entitled to change his method of accounting unilaterally. In *Snow White Food Products Co. Ltd. v. CIT* [1983] 141 ITR 861, the Calcutta High Court reiterated that an assessee is entitled to change his regular method of accounting by another regular method and such a change can be effected even in respect of a part of the assessee's income. According to their Lordships, a recognised method of accounting followed regularly would necessarily result in a proper computation of the assessee's real income. Even if one regular method of accounting is substituted by another regular method, the same result will follow. It is only in a case where the assessee changes his regular method of accounting by another method and does not follow the changed method regularly thereafter that it may be possible to say that by introducing successive changes in his method of accounting, he proposes to exclude certain items in the computation of his total income. In such a case, the bona fides of the assessee may be doubted. Unless there is material on record

to hold that the assessee's action is not bona fide, the change in the method of accounting must be accepted."

26. Reading of the judgments therefore show that having regard to the provisions of section 145 of the IT Act, the Apex Court, this Court and the Gujarat High Court have approved the liberty available to the assessee to follow either of the two systems of accounting or the hybrid system. As reiterated by the Apex Court in Taparia Tools Ltd. v. Commissioner of Income Tax [(2015) 276 CTR 1], the entries in the books of accounts are not determinative or conclusive and any matter relevant is to be examined on the touchstone of provisions contained in the Act. Apart from arguing that for the sales of newspaper and advertisement charges, it was not permissible to adopt accounting on cash basis, it was not even contended by the Revenue that the taxable income could not be deduced from the accounts of the assessee.

In the light of the principles of law deducible from the statutory provisions and the judgments that we have referred to, we are of the view that no illegality can be attributed to the decision of the Tribunal. In such circumstances, answering the question of law in favour of the assessee and against the Revenue, these appeals are dismissed.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
SHAJI P. CHALY, Judge.

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