

**IN THE HIGH COURT OF JUDICATURE AT HYDERBAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADERSH
WRIT PETITION No.33342 of 2015**

Between:

M/s. Rain Cements Limited,
rep. by its Chief Financial Officer
G.N.V.S.R.R. Kumar.

.....Petitioner

And

1. Deputy Commissioner of Income Tax, Circle-3(1), I.T. Towers,
Masab Tank, Hyderabad – 500 004, and others.

..... Respondent

JUDGMENT PRONOUNCED ON : 31.08.2016

HON'BLE SRI JUSTICE : V. RAMASUBRAMANIAN

AND

HON'BLE MRS JUSTICE : ANIS

1. Whether Reporters of local
Newspapers may be allowed to see
the Judgments? :
2. Whether the copies of judgment
may be marked to Law Reporters/
Journals?
3. Whether their Ladyship/Lordship
wish to see the fair copy of the
judgment? :

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT. JUSTICE ANIS

+ Writ Petition No.33342 of 2015

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% 31-8-2016

M/s. Rain Cements Ltd., (Formerly M/s Rain CII
Carbon (India) Ltd., Hyderabad-73,
Rep. by its Chief Financial Officer, GNVSRR Kumar
... Petitioner

Vs.

\$ Deputy Commissioner of Income Tax, Circle-3(1),
I.T. Towers, Masab Tank, Hyderabad-04;
and 4 others

... Respondents

! Counsel for the Petitioner: Mr. Deepak Chopra

Counsel for the Respondents: Mr. B.Narasimha Sarma,
Senior Standing Counsel.

< Gist:

> Head Note:

? Cases referred:
Nil.

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT JUSTICE ANIS

Writ Petition No.33342 of 2015

Order: (per V.Ramasubramanian, J.)

The petitioner has come up with the above writ petition seeking a declaration that the proceedings issued by the Deputy Commissioner of Income Tax under Section 143(3) read with Section 144-C (13) of the Income Tax Act, 1961, are null and void and also for quashing the decision of the Disputes Resolution Panel dated 22-6-2015.

2. We have heard Mr. Deepak Chopra, learned counsel appearing for the petitioner and Mr. B.Narasimha Sarma, learned Senior Standing Counsel for the respondents.

3. The petitioner is a wholly owned subsidiary of a company, by name Rain Industries Limited. It is engaged in the business of manufacture of Calcinated Petroleum Coke and Power Generation in the State.

4. The petitioner filed its return of income on 30-9-2008 for the Assessment Year 2008-09 declaring a loss of Rs.23,71,90,124/- after claiming exemption of an amount of Rs.84,87,05,352/- under Section 10B. The petitioner was liable to pay taxes under Section 115JB on its book profits.

5. The case of the petitioner was taken up for scrutiny and after considering the documents, an order under Section 143(3) was passed on 25-01-2012. By this order, the Joint Commissioner of Income Tax allowed deduction under Section 10B to a lesser extent than what was claimed in the original return of income.

6. Aggrieved by the order dated 25-01-2012 passed under Section 143(3), the petitioner filed an appeal on 29-02-2012 before the Commissioner of Income Tax (Appeals).

The appeal is stated to be pending for the past more than four years.

7. In the meantime a notice dated 21-3-2013 was issued under Section 148, calling upon the petitioner to file its return of income. The petitioner submitted a letter dated 16-4-2013 requesting the Department to treat the return of income filed on 30-9-2008 as the return. Thereupon, the Assessing Officer sent a communication dated 31-7-2013, stating the reasons for reopening of assessment.

The petitioner submitted its objections on 19-8-2013.

8. Thereafter the Deputy Commissioner, passed a draft assessment order dated 26-3-2014 computing the total income at Rs.34,62,48,597/-, as against the loss originally returned by the petitioner.

9. According to the petitioner, the draft assessment order dated 26-3-2014 was not served on them, for a full period of about five months. It is claimed by the petitioner that the draft assessment order was served by hand on the petitioner only on 22-8-2014.

10. Within 30 days of receipt of the draft assessment order, the petitioner filed their objections before the Disputes Resolution Panel, at Hyderabad on 18-9-2014. This was in terms of Section 144-C (2) (b).

11. When the objections of the petitioner were pending before the Disputes Resolution Panel, at Hyderabad, the Central Board of Direct Taxes issued instructions dated 01-01-2015, reconstituting the jurisdiction of the Disputes Resolution Panel. As per these instructions, the Disputes Resolution Panel, Bengaluru assumed jurisdiction over the States of Andhra Pradesh and Telangana. Therefore the objections raised

by the petitioner were transferred to the Disputes Resolution Panel, Bengaluru.

12. The Disputes Resolution Panel, Bengaluru, issued a notice of hearing and the petitioner participated in the hearing on 18-6-2015. The petitioner also made written submissions on 22-6-2015.

13. However, the Disputes Resolution Panel, Bengaluru, passed an order dated 22-6-2015 holding that the period of nine months fixed by Section 144-C (12) had expired by 31-12-2014 and that since the DRP, Bengaluru assumed jurisdiction only from 1-1-2015, they did not have jurisdiction to pass any orders on the objections of the petitioner.

14. Immediately the Assessing Officer passed a final assessment order dated 28-8-2015. Aggrieved by the final assessment order and the decision of the Disputes Resolution Panel, Bengaluru, the petitioner is before us.

15. The main grounds on which the petitioner challenges the decision of the Disputes Resolution Panel, and the consequential order of assessment are as follows:

(1) that the period of nine months stipulated in sub-section (12) of Section 144-C has to be reckoned only from the date on which the draft assessment order is forwarded to the assessee and not from the date on which the draft assessment order was passed,

(2) that when the Disputes Resolution Panel, Hyderabad forwarded the papers to the Disputes Resolution Panel, Bengaluru, they themselves indicated that the time limit available for Disputes Resolution Panel, Bengaluru to issue directions under sub-section (5), was up to June 2015, but the Disputes Resolution Panel, Bengaluru, wrongly thought that the time limit expired on 31-12-

2014,

(3) that the Disputes Resolution Panel's order to the effect that Form 35A was not filed, was factually incorrect,

(4) that the Assessing Officer complicated matters by presuming the order of the Disputes Resolution Panel dated 22-6-2015 to be a direction under sub-section (5), and

(5) that if the petitioner had not filed their objections to the draft assessment order within time, the Assessing Officer could have passed the final assessment order under sub-section (3), immediately after the expiry of 30 days available for filing the appeal and the very fact that the Assessing Officer did not do so, makes it clear that the Assessing Officer waited for a direction from the Disputes Resolution Panel.

16. We have carefully considered the above submissions.

17. As rightly pointed out by the learned counsel for the petitioner, Section 144-C is a complete code in itself, as it incorporates, all the dos and don'ts for the Disputes Resolution Panel as well as the Assessing Officer. Therefore it is necessary to extract Section 144-C. It reads as follows:

“144C. (1) The Assessing Officer shall, notwithstanding anything to the contrary contained in this Act, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the eligible assessee if he proposes to make, on or after the 1st day of October, 2009, any variation in the income or loss returned which is prejudicial to the interest of such assessee.

(2) On receipt of the draft order, the eligible assessee shall, within thirty days of the receipt by him of the draft order,—

(a) file his acceptance of the variations to the Assessing Officer; or

(b) file his objections, if any, to such variation with,—

(i) the Dispute Resolution Panel; and

(ii) the Assessing Officer.

(3) The Assessing Officer shall complete the assessment on the basis of the draft order, if—

(a) the assessee intimates to the Assessing Officer the

acceptance of the variation; or

(b) no objections are received within the period specified in sub-section (2).

(4) The Assessing Officer shall, notwithstanding anything contained in [section 153](#) or [section 153B](#), pass the assessment order under sub-section (3) within one month from the end of the month in which,—

(a) the acceptance is received; or

(b) the period of filing of objections under sub-section (2) expires.

(5) The Dispute Resolution Panel shall, in a case where any objection is received under sub-section (2), issue such directions, as it thinks fit, for the guidance of the Assessing Officer to enable him to complete the assessment.

(6) The Dispute Resolution Panel shall issue the directions referred to in sub-section (5), after considering the following, namely:—

(a) draft order;

(b) objections filed by the assessee;

(c) evidence furnished by the assessee;

(d) report, if any, of the Assessing Officer, Valuation Officer or Transfer Pricing Officer or any other authority;

(e) records relating to the draft order;

(f) evidence collected by, or caused to be collected by, it; and

(g) result of any enquiry made by, or caused to be made by, it.

(7) The Dispute Resolution Panel may, before issuing any directions referred to in sub-section (5),—

(a) make such further enquiry, as it thinks fit; or

(b) cause any further enquiry to be made by any income-tax authority and report the result of the same to it.

(8) The Dispute Resolution Panel may confirm, reduce or enhance the variations proposed in the draft order so, however, that it shall not set aside any proposed variation or issue any direction under sub-section (5) for further enquiry and passing of the assessment order.

Explanation.—For the removal of doubts, it is hereby declared that the power of the Dispute Resolution Panel to enhance the variation shall include and shall be deemed always to have included the power to consider any matter arising out of the assessment proceedings relating to the draft order, notwithstanding that such matter was raised or not by the eligible assessee.

(9) If the members of the Dispute Resolution Panel differ in opinion on any point, the point shall be decided according to

the opinion of the majority of the members.

(10) Every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer.

(11) No direction under sub-section (5) shall be issued unless an opportunity of being heard is given to the assessee and the Assessing Officer on such directions which are prejudicial to the interest of the assessee or the interest of the revenue, respectively.

(12) No direction under sub-section (5) shall be issued after nine months from the end of the month in which the draft order is forwarded to the eligible assessee.

(13) Upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained in [section 153](#) or [section 153B](#), the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received.

(14) The Board may make rules for the purposes of the efficient functioning of the Dispute Resolution Panel and expeditious disposal of the objections filed under sub-section (2) by the eligible assessee.

[48b](#)[(14A)The provisions of this section shall not apply to any assessment or reassessment order passed by the Assessing Officer with the prior approval of the [49](#)[Principal Commissioner or] Commissioner as provided in sub-section (12)of [section 144BA](#).]

(15) For the purposes of this section,—

(a) "Dispute Resolution Panel" means a collegium comprising of three [49](#)[Principal Commissioners or] Commissioners of Income-tax constituted by the Board for this purpose;

(b) "eligible assessee" means,—

(i) any person in whose case the variation referred to in sub-section (1) arises as a consequence of the order of the Transfer Pricing Officer passed under sub-section (3) of [section 92CA](#); and

(ii) any foreign company."

History and object behind Section 144-C:-

18. Section 144-C was inserted in the Income Tax Act by Finance (No.2) Act, 2009 with effect from 01-4-2009.

The reason for the insertion of Section 144-C was given in the Notes on Clauses, Finance Bill, 2009, as under:

“The subjects of transfer pricing audit and the taxation of foreign companies are at nascent stage in India. Often the Assessing Officer and the Transfer Pricing Officers tend to take a conservative view. The correction of such view takes very long time with the existing appellate structure.

With a view to provide speedy disposal, it is proposed to amend the Income Tax Act so as to create an alternative dispute resolution mechanism within the Income Tax Department and accordingly Section 144C has been proposed to be inserted so as to provide *inter alia* the Dispute Resolution Panel as an alternative dispute resolution mechanism.”

19. It appears that from the time Section 144-C was inserted, there have been some misgivings and misunderstandings. The Government notified the Dispute Resolution Panel Rules by S.O. No.2958 (E), dated 20-11-2009. Thereafter, an Explanatory Circular for Finance (No.2) Act, 2009 was issued in Circular No.5/2010, dated 03-6-2010. Paragraph 45 of the said Circular explained the new Section 144-C and the consequential amendments made in the other Sections of the Act. While doing so, the Circular dated 03-6-2010 wrongly indicated that the amendments, made applicable with effect from 01-10-2009, will apply in relation to assessment year 2010-11 and subsequent assessment years.

20. In order to set right the above mistake, another Circular bearing No.9/2013 was issued on 19-11-2013.

By this Circular it was clarified that Section 144-C is applicable to any order which proposed to make variation in income or loss returned by an eligible assessee on or after 01-10-2009, irrespective of the assessment year to which it pertains.

21. Nevertheless, paragraphs 45.1 to 45.4 of Circular No.5/2010, dated 03-6-2010, sought to explain the substance of the provisions of Section 144-C. In brief, the contents of

paragraphs 45.1 to 45.4 can be summarised as follows:

(1) The Dispute Resolution Mechanism presently in place, is time consuming and finality in high demand cases is attained after long drawn litigation to the Supreme Court. Therefore in order to address the concern of the multi-national companies and to provide mechanism for speedy disposal of their cases, this new provision was inserted to facilitate expeditious resolution of disputes.

(2) The Dispute Resolution Panel is vested with the same powers as are vested in a Court under the CPC.

This was done by amending Section 131(1).

(3) An order passed under Section 143(3) or Section 147 in pursuance of the directions of the DRP, is not made appealable under Section 246A(1) to the Commissioner or under Section 253(1) to the Appellate Tribunal. It means a finality was sought to be attached to the directions issued by the Dispute Resolution Panel.

(4) Since the Dispute Resolution Panel is provided as an alternative mechanism for the resolution of disputes, the choice is upon the assessee whether to file an objection against the draft assessment order before the DRP or to pursue the normal channel of filing of appeal against the assessment order before the Commissioner (Appeals).

22. An interesting aspect to be taken note of from Circular No.5/2010, dated 03-6-2010, is that as per para 45.4 of the Circular, “once the option of filing an objection against the draft assessment order before the DRP has been exercised, the assessee cannot withdraw the objection and opt for the normal channel of filing an appeal before CIT (Appeals)”. Irrespective of whether the understanding of the

Government in para 45.4 of Circular No.5/2010 is correct or not, the Circular seems to proceed on the footing that the availing of the remedy to go before the DRP, would take away the right of appeal. Therefore, ***it is clear that the option exercised by an assessee to avail the alternative mechanism of dispute resolution, by going before the DRP, cannot be rendered an exercise in futility, by throwing the objections out, on flimsy grounds.***

23. As a matter of fact, the Central Board of Direct Taxes had already issued a set of rules known as Income Tax (Dispute Resolution Panel) Rules, 2009, in exercise of the powers conferred by Section 144-C (14). Under these Rules, provisions are made for the constitution of Dispute Resolution Panels, the method of filling up vacancies arising in the Panels, the establishment of a Secretariat attached to each Panel etc. Rule 4(1) of these Rules stipulates that the objections to a draft assessment order should be filed in

Form No.35A. The objections are to be accompanied by the evidence relied upon by the assessee. As per Rule 5 of these Rules, the Panel should issue a notice of hearing to the assessee, as per Rule 6 the Panel should call for the records and as per Rule 7 the Panel should hear both parties and thereafter pass an order. Rule 9 empowers the Panel to call for or permit any additional evidence.

24. Interestingly Rule 8 of these Rules stipulates that if the eligible assessee dies or adjudicated as insolvent or wound up (in the case of a limited company) after the filing of objections, the proceedings before the Panel shall not abate.

25. With regard to the power of the Panel to issue directions, Rule 10(2) makes it clear that the Panel need not

consider itself bound by the grounds set out in the objections, but shall have the power to consider any matter or grounds arising out of the proceedings.

26. Rule 13 confers a power upon the Panel, both *suo motu* and on an application from the assessee or the Assessing Officer, to rectify any mistake or error found in the directions issued under sub-section (5).

27. Another important aspect of the Rules is that under Rule 14 of these Rules, an appeal against the assessment order passed in pursuance of the directions issued by the Panel under sub-section (5), should be filed before the Appellate Tribunal in Form No.36B. Therefore para 45.4 of Circular No.5/2010, has to be understood to convey a limited meaning that an assessee is not entitled to file an appeal against the draft assessment order. But once a final assessment order is made as per the directions issued by DRP, the same can be the subject matter of an appeal before the Tribunal.

Fact Situation on Hand:

28. Having seen the history and object of Section 144C and the manner in which the Department had understood the same, let us now come to the facts of the case on hand.

29. Admittedly the draft assessment order was passed on 26-3-2014. According to the petitioner, it was received by them only on 22-8-2014. But according to para 3 of the proceedings dated 22-6-2015, they did not find any credible evidence placed on record as to the date of service of the draft order. Therefore the DRP has wondered in para 3 as to how it could have taken five long months for the draft assessment order to be served on the assessee.

30. But unfortunately, the Tribunal, in our considered view,

misdirected the above question to the assessee. We have already extracted Section 144C. Sub-section (1) of Section 144C makes it mandatory for the Assessing Officer to forward a draft assessment order to the assessee. What is the meaning of the expression “forward” appearing in sub-section (1) ?

31. The answer to this question would depend upon the consequences that would flow out of the compliance or non-compliance with the obligation “to forward”. Sub-section (2) of Section 144C obliges the assessee to file objections within 30 days, before the DRP. While sub-section (1) which speaks of the obligation of the Assessing Officer, uses the expression “forward”, sub-section (2) which speaks of the entitlement of the assessee, uses the phrase “on receipt of the draft order”. The word “receipt” is used twice in sub-section (2). Sub-section (2) begins with the words “on receipt of the draft order, the eligible assessee shall, within 30 days of the receipt by him of the draft order”.

32. Therefore the word “forward” appearing in sub-section (1) cannot have a meaning that is completely contrary to the words and expressions found in sub-section (2). Unless the word “forward” is understood to mean actual service of the copy of the draft assessment order on the assessee, the word “receipt” found in sub-section (2) would lose its meaning.

33. Therefore it is clear that the obligation on the part of the Assessing Officer under sub-section (1) is to serve the draft assessment order on the assessee. It is not enough for the Assessing Officer merely to pass a draft assessment order and keep it in his almirah. It is necessary for him to send the same in a manner known to law and serve the same on the assessee. The

period of 30 days available to the assessee to file objections, would start running only from the date on which the assessee receives the draft assessment order.

34. In the case on hand, the Department has no doubt produced a letter dated 26-3-2014, by which the draft assessment order was purportedly forwarded to the assessee. But it is not indicated anywhere as to how the service of the same on the assessee was sought to be effected.

In an Additional Counter Affidavit filed by the Joint Commissioner of Income Tax, she has indicated that the office copy of the forwarding letter dated 26-3-2014 contains an endorsement of the Notice Server to the effect that the door of the petitioner-company's office was locked. Therefore the Assessing Officer seeks to contend that the service of the draft assessment order should be deemed to be complete.

35. But we fail to understand as to why the draft assessment order was sought to be sent through a Notice Server, rather than by post. Interestingly the endorsement of the Notice Server, by name Venkataiah does not even contain a date. Even the Tear off acknowledgment slip that contains the endorsement of the Notice Server on the reverse, does not bear a date. On the contrary, the Tear off acknowledgment slip relating to the copy of the draft assessment order actually served on the writ petitioner, contains the date 22-8-2014. Therefore the claim made in the Additional Counter Affidavit by the Assessing Officer that the draft assessment order was sent on 26-3-2014, is completely contrary to truth.

36. Moreover the letter dated 15-4-2016 sent by the Tax Recovery Officer (Former Secretary, DRP, Hyderabad) to the Assessing Officer, which is filed along with the Additional Counter

Affidavit of the respondents, discloses that the objections filed by the petitioner in Form 35A was forwarded to DRP, Bengaluru on 31-3-2015. As per the proceedings dated 31-3-2015, a copy of which is filed by the Department itself, the DRP had time up to August, 2015 to issue directions under sub-section (5) on the objections filed by the petitioner to the draft assessment order.

37. Therefore it is clear (1) that even as per the “Tear off acknowledgment slip” produced by the Department, the draft assessment order was received by the assessee only on 22-8-2014 (2) that even as per the Secretary of the DRP, Hyderabad, the time prescribed under sub-section (12) of Section 144-C, was to expire only in June or August, 2015 and (3) that therefore the stand taken by DRP, Bengaluru in its impugned communication that the jurisdiction to pass orders lapsed on 31-12-2014 was completely contrary to facts as well as law.

38. Once it is found that the order of the DRP dated 22-6-2015 rejecting the objections as incapable of being considered, to be contrary to law, then the next question that arises for consideration is as to what would follow logically as a consequence of the same.

39. On first principles of law, if the rejection of an appeal or a set of objections by the Appellate or the Original Authority, on pure technicalities (and not on merits) is found to be not in accordance with law, then the normal course to be adopted by a Court would be to send the matter back to the same Authority for a consideration on merits. Therefore once we find that the DRP, Bengaluru had wrongly rejected the objections of the petitioner without going into the merits, the logical consequence of such a finding would be to set aside the order of rejection of the DRP and to send the matter back to the DRP for a consideration of

the objections on merits and in accordance with law.

40. But in this case, sub-section (12) of Section 144C, on the face of it, appears to pose an obstacle. Under sub-section (12), no direction can be issued by the DRP under sub-section (5), after the expiry of nine months from the end of the month in which the draft assessment order was forwarded to the eligible assessee. In this case we have found the date of forwarding of the draft assessment order to be 22-8-2014. Hence, the period stipulated under sub-section (12) would expire by 31-5-2015. But the DRP passed an order on 22-6-2015 holding that it had lost jurisdiction to pass an order on 31-12-2014 itself. Even though the date mentioned is not correct, the fact remains that the DRP could not have issued any direction after 31-5-2015, even on undisputed facts.

41. The question that then arises is as to whether this Court can now issue a direction to the DRP to consider the matter on merits and pass an order.

42. While construing the provisions relating to limitation, the Supreme Court has made it clear that if the Statute has stipulated even the upper time limit up to which a delay in filing an appeal could be condoned by an Appellate Authority, the Courts cannot direct the Appellate Authorities to consider the applications for condonation of the delay of a period exceeding the upper limit. It has also been held that even the Court cannot condone such a delay. Therefore a doubt arises as to whether the prescription contained in sub-section (12) is mandatory that goes to the root of the jurisdiction of the DRP to pass an order. If what is prescribed by sub-section (12) is a jurisdictional issue, then the Court cannot ask the DRP to do something for which they have no jurisdiction.

43. But the bar under sub-section (12) of Section 144C does

not appear to be one that goes to the root of the jurisdictional issue. The reasons are two-fold. The first is that as per the scheme of Section 144C, the DRP is constituted as an alternative mechanism for resolution of disputes. Therefore it is conferred with the powers of a Civil Court to take evidence, hold an enquiry and even correct mistakes or errors *suo motu* or on an application of either of the parties. The intention behind the insertion of Section 144C is to provide a mechanism for speedy resolution of disputes and to ensure finality to litigation. Therefore the bar under sub-section (12) cannot be treated as one going to the root of the matter.

44. The second reason as to why we opine so is that the Supreme Court itself has understood Section 144C to be of such nature. In **Additional CIT v. HCL Technologies Ltd.**, decided on 07-9-2009 and reported in (2010) 188 Taxmann 303, the Supreme Court disposed of an appeal filed by the Revenue, directing the authorities to take recourse to the alternative dispute resolution mechanism suggested under Section 144C. Though the said order of the Supreme Court is a brief order, which did not lay down any ratio, the same gives an indication as to how to understand the purport of Section 144C. The order of the Supreme Court in the said case reads as follows:

“3. We are of the view that in the peculiar facts and circumstances of this case, particularly when the High Court has remitted the matter to the Transfer Pricing Officer from whose order an appeal is pending before the CIT (A), it would be in the interest of both sides to resort to alternative dispute resolution mechanism suggested in the budget of 2009 (see Section 144C of the Income Tax Act, 1961). It is made clear that the competent authority will not reject the application herein made by the assessee on the ground that the proposal has come after the cut-off date.”

45. Therefore we are of the considered view that it is

possible for this Court to set aside the order of the Dispute Resolution Panel and remit the matter back to them for a consideration on merits, inspite of the fact that the period stipulated in sub-section (12) would have expired by 31-5-2015.

46. In view of the above, the writ petition is allowed, the order of the Dispute Resolution Panel, Bengaluru, dated 22-6-2015 is set aside and the DRP, Bengaluru is directed to take up Form 35A filed by the petitioner along with the annexures and the evidence for a consideration on merits. The DRP shall give opportunity of hearing to both parties, follow the procedure prescribed in Section 144C and issue appropriate directions under sub-section (5), within a period of three months from the date of receipt of a copy of this order. As a consequence of our setting aside the DRP's order dated 22-6-2015, the final assessment order passed by the Assessing Officer on 28-8-2015 is set aside. The Assessing Officer shall pass a final assessment order, after and on the basis of the directions issued by the DRP, as per our directions. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. There will be no order as to costs.

47. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

V.RAMASUBRAMANIAN, J.

ANIS, J.

31st August, 2016.

Note:- L.R. Copy to be marked.

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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND
HON'BLE SMT JUSTICE ANIS

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Writ Petition No.33342 of 2015
(per VRS, J.)

31st August, 2016.
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