$~

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

20

\+ **W.P.(C) 1804/2015**

AMADEUS INDIA PVT. LTD. ..... Petitioner

versus

DEPUTY COMMISSIONER OF INCOME TAX ..... Respondent

And

21

\+ **W.P.(C) 1805/2015**

AMADEUS INDIA PVT. LTD. ..... Petitioner

versus

DEPUTY COMMISSIONER OF INCOME TAX ..... Respondent

Present: Mr. M.S. Syali, Sr. Adv. with Mr. Mayank Nagi and Mr. Tarun Singh, Advocates for the Petitioner in both the matters.
Mr. Dileep Shivpuri, Sr. Standing Counsel and Mr. Sanjay Kumar, Jr. Standing Counsel for the Respondent.

CORAM: JUSTICE S.MURALIDHAR
JUSTICE CHANDER SHEKHAR

O R D E R

% **29.05.2017**

1. The challenge in these two petitions by Amadeus India Pvt. Ltd. is to the re-opening of the assessments for the Assessment Years ('AYs') 2007-08 and 2008-09 by the notice dated 31st March, 2014 issued by the DCIT under Section 148 of the Income Tax Act, 1961 ('Act').

2. It is seen from the reasons recorded under Section 147 of the Act that the Assessing Officer ('AO') has stated that he had reason to believe that the income of the Assessee has escaped assessment as the Assessee has claimed excess deduction/exemption on account of revenue earned under the Distribution Agreement which does not qualify for deduction/exemption under Section 10A of the Act. In doing so, the AO has specifically referred to the directions issued by Dispute Resolution Panel ('DRP') relevant for AY 2009-10 holding that the revenue receipts under the Distribution Agreement did not qualify for exemption under Section 10A.

3. By its order dated 22nd May, 2017 in ITA No. 154/2017 (***PCIT v. Amadeus India Pvt. Ltd.***) for AY 2009-10, this Court upheld the order dated 21st August, 2016 passed by the ITAT in ITA No. 1804/Del/2014 whereby the ITAT had disagreed with the view expressed by the DRP on the above issue for AY 2009-10. Consequently, the very basis for reopening of the assessments has ceased to exist in view of the above decision of this court.

4. The Court's attention has been drawn to the judgment of this Court in ***A.T.Kearney India Ltd. v. Income Tax Officer (2015) 371 ITR 179 (Del)*** where in the similar circumstances while setting aside the order of reassessment under Section 148 of the Act, he Court observed that if the case were ultimately decided in favour of the Revenue in respect of the AY which formed the basis for reopening, then Revenue shall be entitled to revive the proceedings pursuant to the notices under Section 148 of the Act and the Assessee shall not take the plea for reopening of assessment.

5. Following the decision of this court in ***A.T.Kearney India Ltd. v. Income***

Tax Officer (*supra*), this court allows the present two writ petitions and sets aside the impugned orders dated 31st March 2014 issued by the Revenue under Section 148 of the Act seeking to reopen the assessments for AYs 2007-2008 and 2008-2009 and clarifies that if the case pertaining to the AY 2009-2010 is ultimately decided in favour of the Revenue, the Revenue would be entitled to revive the reassessment proceedings pursuant to the impugned notices under Section 148 of the Act and that in such event the Petitioner Assessee shall not take the plea of limitation.

6. The petitions are disposed of in the above terms.

S.MURALIDHAR, J

CHANDER SHEKHAR, J

MAY 29, 2017
rb