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In the High Court of Judicature at Madras

Dated : 09.8.2019

Coram :

The Honourable Mr. Justice T.S.SIVAGNANAM

and

The Honourable Mrs. Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal Nos.181 to 184, 521, 522, 545 & 546 of 2009
MP.No.1 of 2009 in TCA. No.545 of 2009 &
MP.No.2 of 2009 in TCA. No.546 of 2009

M/s.Chemmancherry Estates
Company, Chennai-1.

...Appellant in TCA.Nos.
181 to 184 & 545 & 546
of 2009 & Respondent in
TCA.Nos.521 & 522 of
2009

The Commissioner of Income Tax,
Tamil Nadu-VIII, Chennai

...Appellant in TCA.Nos.
521 & 522 of 2009
Vs

The Income Tax Officer, Ward-
VIII(2), Chennai-6.

...Respondent in TCA.Nos.
181 to 184 & 545 & 546
2009

APPEALS under Section 260A of the Income Tax Act, 1961 against the (i) common order dated 27.6.2008 made in ITA.Nos.1876, 1909, 1877 & 1910/Mds/2006 on the file of the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment years 2001-02, 2001-02, 2002-03 and 2002-03 (TCA.Nos.181 to 184 of 2009) (filed by the assessee).

(ii) the common order dated 28.11.2008 made in ITA.Nos.2134 & 2135/Mds/2007 for the assessment years 2001-02 and 2002-03 (TCA.Nos. 545 & 546 of 2009) (filed by the assessee); and

(iii) the common order dated 27.6.2008 made in ITA.Nos.1909 and 1910/Mds/2006 for the assessment years 2001-02 and 2002-03 (TCA.Nos. 521 and 522 of 2009) (filed by the Revenue).



Appeal against the order dated 26/05/2006 on the file of the Commissioner of Income Tax (Appeals) IX Chennai 600034 made in IT/Appeal No.31/2003-04 for the Assessment Year 2001-2002 and against the Order dated 31/03/2001 on the file of the Office of the Income Tax Officer Business Range-VIII(2) Chennai, Chennai-600 006 made in GIR No./PAN-31005-C for the Assessment Year 2001-02 (TCA Nos.181 & 182 of 2009)

Appeal against the Order dated 30/05/2006 on the file of the Commissioner of Income Tax (Appeals) IX Chennai 600 034 made in G.I.No./PANo.AAAAC0061C for the Assessment Year 2002-2003 and against the order dated 28/03/2005 on the file of the Income Tax Officer, Business Ward VIII(2), Chennai-6 made in PAN/GIR No.AACAC0061C/31005-C for the Assessment Year 2002-03 (TCA 183 & 184 of 2009)

Appeal against order dated 30/05/2006 on the file of the Commissioner of Income Tax (Appeal No.148/2005-06 for the Assessment Year 2002-03 and against the Order dated 26/05/2006 on the file of the Commissioner of Income Tax (Appeals) IX Chennai 600 034 made in IT Appeal No.31/2003-04 for the assessment Year 2001-02 and against the order dated 28/03/2005 on the file of the Income Tax Officer, Business ward VIII (2), Chennai 600 006 made in PAN/GIR No.AAAAC0061C/31005-C for the Assessment Year 2002-03 and against the order dated 31/03/2003 on the file of the Income Tax Officer Business Range-VII (2) Chennai, Chennai-600 006 for the Assessment Year 2001-02 (TCA Nos.521 & 522/2009)

Appeal against the Order dated 11/07/2007 on the file of the Commissioner of Income Tax, (Appeals)-IX, Chennai made in PAN AAAAC0061C for the Assessment Year 2001-02 and against the order dated 28/03/2007 on the file of the Income Tax Officer, Ward VIII(2), Chennai-6 made in VIII(2) AAAAC0061 C/PENAL TY/01-02 for the Assessment Year 2001-02 (TCA Nos.545 & 546/2009)

For Assessee: Mr.M.P.Senthilkumar

For Revenue : Mr.R.Swaminathan, SSC &
Mrs.V.Pushpa, SC

COMMON JUDGMENT

(Judgment was delivered by T.S.Sivagnanam,J)

We have elaborately heard Mr.M.P.Senthilkumar, learned counsel for the assessee and Mr.M.Swaminathan, learned Senior Standing Counsel appearing for the Revenue.



2. TCA.Nos.181 to 184 and 545 and 546 of 2009 have been filed by the assessee under Section 260A of the Income Tax Act (for short, the Act) challenging the orders (i) dated 27.6.2008 in ITA.Nos.1876, 1909, 1877 & 1910/Mds/2006 for the assessment years 2001-02, 2001-02, 2002-03 and 2002-03 and (ii) dated 28.11.2008 in ITA.Nos.2134 & 2135/Mds/2007 for the assessment years 2001-02 and 2002-03, both passed by the Income Tax Appellate Tribunal, Chennai 'A' Bench. TCA.Nos.521 and 522 of 2009 have been filed by the Revenue challenging the common order dated 27.6.2008 in ITA.Nos.1909 and 1910/Mds/2006 passed by the Income Tax Appellate Tribunal, Chennai 'A' Bench for the assessment years 2001-02 and 2002-03.

3. TCA.Nos.181 and 183 of 2009 were admitted on 30.3.2009 on the following substantial questions of law :

"(i) Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the land sold by the appellant would not fall within the meaning of Section 2(14)(iii) of the Income Tax Act, 1961, to substantiate the claim that no capital gains would arise therefrom?

(ii) Whether, on the facts and circumstances of the case, the Tribunal was right in law in holding that the appellant is not entitled to indexation of interest payment on borrowed funds used for purchase of land, which being 'cost of acquisition'? And

(iii) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in remitting back the issue of allowing compound interest on borrowed funds as cost of acquisition to the file of the assessing officer with a direction to examine the genuineness of the payment of interest, when the CIT(A) had give categorical finding on this issue??"

4. TCA.Nos.182 and 184 of 2009 were admitted on 30.3.2009 on the following substantial question of law :



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"Whether on the facts and in the circumstances of the case, the Tribunal was right in law in remitting back the issue of allowing interest on borrowed funds as cost of acquisition to the file of the assessing with a direction to examine the genuineness of the payment of interest, when the CIT(A) had given categorical finding on this genuineness and when the Department had not questioned the genuineness of the payment of interest?"

5. TCA.Nos.521 and 522 of 2009 were admitted on 13.7.2009 on the following substantial questions of law :

"i. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in allowing the claim of interest for the purpose of acquiring capital asset as cost of asset while computing the capital gains ? And

ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in following the High Court decision in the case of CIT Vs. Rajagopala [reported in 252 ITR 459], as the facts are distinguishable in this case, inasmuch as the decision rendered in that case related to the period prior to the introduction of concept indexation cost?"



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6. TCA.Nos.545 and 546 of 2009 were admitted on 13.7.2009 on the following substantial questions of law :

"i. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the claim of the appellant that the land held by it was agricultural in nature, which had satisfied Section 2(14)(iii) and had not fallen within the exclusions of the Section and its claim of exemption from capital gains would amount to concealment or furnishing of inaccurate particulars warranting levy of penalty under Section 271(1)(c) of the Income Tax Act, 1961?

ii. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in upholding the levy of penalty under Section 271(1)(c) on the claim of the appellant that the land sold by it would fall within the meaning of Section 2(14)(iii) of the Income Tax Act, 1961 and therefore, exempt from capital gains ? And

iii. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in upholding the levy of penalty under Section 271(1)(c) when the assessee had not done any positive act to convert the agricultural land held by it into plots for real estate business ?"

7. It is not out of place to mention here that by order dated 12.7.2019, we answered two issues, which arose in these appeals. The relevant portions in the order dated 12.7.2019 read thus :

"4. We have heard Mr.M.P.Senthil Kumar, learned counsel for the appellant/assessee and Mr.M.Swaminathan, learned Senior Standing counsel for the respondent/revenue.

5. The first substantial question in TC(A) 181 & 183 of 2009 is whether the land sold by the appellant would fall within the definition of agricultural land as defined under Section 2(14) of Clause (iii) of the Act. To be noted that, the Assessing Officer, Commissioner of Income Tax (Appeals)-IX (hereinafter referred to as CIT (A)) and the Tribunal concurrently held that the land sold by the assessee was not an



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agricultural land. Thus, the question would be whether this Court while considering the appeals under Section 260-A of the Act can undertake an exercise of re-appreciation of the factual position. The answer to this question should be in the negative, as an appeal under Section 260-A of the Act can be decided only on substantial questions of law.

6. The two authorities and the Tribunal examined the factual position, the conduct of the assessee, location of the land, purchaser of the land etc., and held that the land sold by the assessee was not an agricultural land. Apart from all these factors, one another most important factor was that the land would fall within the jurisdiction of the Chennai Metropolitan Development Authority (CMDA). Thus, we need to see what would be the effect of the land falling within the limits of CMDA. Before that, we need to note that the land has been assessed to tax as an urban land. The effect of such assessment also has to be considered. The Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 defines the urban land under Section 3(p) as follows:

“(p) ‘urban land’ means-

(i) any land situated within the limits of an urban agglomeration and referred to as such in the master plan or

(ii) in a case where there is no master plan, or where the master plan does not refer to any land as urban land, any land within the limits of an urban agglomeration but does not include any such land which is mainly used for the purpose of agriculture.”

7. In terms of the above definition, any land situated within the limits of an urban agglomeration and referred to as such in the master plan will be an urban land. In case, where there is no master plan, but the land lies within the limits of an urban agglomeration it would fall outside the scope of urban land only when the land is



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mainly used for the purpose of agriculture. Section 3(n) defines urban agglomeration as follows:

`(n) "urban agglomeration" means -

(i) the area comprised in the urban agglomeration specified in Schedule I; and

(ii) any other area which the State Government may, having regard to its location, population (population being more than one lakh) and such other relevant factors as the circumstances of the case may require by notification in the Tamil Nadu Government Gazette, declare to be an urban agglomeration and any agglomeration so declared shall be deemed to belong to category II in that schedule;'

8. In terms of the above definition, if any land is notified by the Government as an urban agglomeration, it would automatically fall within the said category as described in the schedule. Admittedly, the land has been notified to fall within the jurisdiction of the CMDA. The provisions of Development Control Rules, which is applied by CMDA, would stand attracted to all lands, which are within the urban agglomeration. Thus by virtue of the notification, the Government of Tamil Nadu has included the area in which the subject lands are situated to be part of an urban agglomeration. Therefore, the assessee, if he seeks to plead that it is not an urban land, the onus is on the assessee that the land was mainly used for the purpose of agriculture.

9. In our considered view by operation of law, the land can never be an agricultural land though it is stated that in the revenue record it is recorded as an agricultural land, the assessee sold the land as an agricultural land, the total extent was in acres and not in square feet.

10. In our considered view, the definition of agricultural land as defined in Section 2(14) clause iii of the Act hits at the assessee because the lands would fall



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within the jurisdiction of an urban agglomeration/Corporation. In any event, the two authorities and the Tribunal have extensively examined the facts and concluded that the land is not an agricultural land.

11. We find no grounds to interfere with the said factual finding concurrently recorded by the authorities and the Tribunal. Learned counsel placed reliance on the decision in the case of CIT Vs. Ashok Kumar Rathi [reported in 2018 404 ITR 0173 (Madras)]. The said decision cannot render any assistance to the case of the assessee on account of the facts which were culled out by the Assessing Officer in the process of assessment establishing that the land sold by the assessee was not an agricultural land. The facts in the case of Ashok Kumar Rathi are differently couched and the said decision cannot be applied to the assessee's case.

12. Furthermore, the entire village of Chemmancherry has been notified under the provisions of Tamil Nadu Land Urban Land (Ceiling and Regulation) Act as well as Urban Land Tax Act and the urban land tax is collected. The Assistant Commissioner of Urban Land is the jurisdictional officer in terms of notification issued by the Government of Tamil Nadu. Thus, the assessee has not made out any ground to interfere with the factual finding and we hold that there is no substantial question of law arising for consideration.

13. Next we have to consider the substantial question of law No.3. We have carefully perused the order passed by the Tribunal and find that the Tribunal has remanded the matter for fresh consideration to the Assessing Officer. The assessee's case is that the CIT(A) has made a categorical finding regarding payment of interest by the assessee, receipt issued by the landlords and returns. In any event, the assessee cannot be stated to be prejudiced because the Tribunal has given independent reasons as to why the Assessing Officer should take a fresh view. Therefore, we find that there is no reason for interfering with



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the order passed by the Tribunal in remanding the matter for fresh consideration. Accordingly, substantial question of law No.3 is decided against the assessee.

14. We have heard Mr.M.P.Senthil Kumar, learned counsel for the appellant and Mr.M. Swaminathan, learned Senior Standing Counsel for the respondent. Out of the three substantial questions of law framed for consideration in these appeals i.e. TCA.Nos. 181 to 184 of 2009 and TCA. Nos.521, 522, 545 & 546 of 2009. We have decided substantial questions of law No.(i) & (iii) i.e., with regard to Section 2(14)(iii) and the order of remand passed by the Tribunal to examine the genuineness of payment of interest against the assessee. The other issues will be heard on the next hearing date.

15. List this matter on 25.7.2019."

8. However, the matters were listed only today.

9. There are two other questions, which remain to be answered by us. The first aspect is with regard to the interest on borrowed funds for acquiring capital asset and whether it had to be treated as cost of acquisition in computing capital gains. The next aspect is with regard to indexation of interest.

10. With regard to the first aspect, the Tribunal, in the impugned order, affirmed by the order passed by the CIT(A), who held that interest paid on funds borrowed for buying the land had to be treated as cost of acquisition. While rendering such a finding, the CIT(A) relied upon the decision of a Division Bench of this Court in the case of CIT Vs. Rajagopala Rao [reported in (2001) 252 ITR 459]. The Revenue challenged this finding by filing TCA.Nos.521 and 522 of 2009.

11. With regard to the next aspect i.e. indexation of interest, by filing TCA.Nos.181 and 183 of 2009, the assessee is before us challenging the finding of the Tribunal, which held that the assessee is not entitled to indexation of interest payment on borrowed funds used for the purchase of land.



12. Mr.M.Swaminathan, learned Senior Standing Counsel for the Revenue has placed reliance on the decision of the Hon'ble Supreme Court in the case of CIT Vs. Tata Iron & Steel Company Limited [reported in 1998 (2) SCC 366] wherein it has been held as follows :

"Coming to the questions raised, we find it difficult to follow how the manner of repayment of loan can affect the cost of the assets acquired by the assessee. What is the actual cost must depend on the amount paid by the assessee to acquire the asset. The amount may have been borrowed by the assessee. But even if the assessee did not repay the loan it will not alter the cost of the asset. If the borrower defaults in repayment of a part of the loan, cost of the asset will not change. What has to be borne in mind is that cost of an asset and cost of raising money for purchase of the asset are two different and independent transactions. Even if an asset is purchased with no repayable subsidy received from the Government, the cost of the asset will be the price paid by the assessee for acquiring the asset. In the instant case, the allegation is that at the time of repayment of loan, there was a fluctuation in the rate of foreign exchange as a result of which, the assessee had to repay a much lesser amount than he would have otherwise paid. In our judgment, this is not a factor which can alter the cost incurred by the assessee for purchase of the asset. The assessee may have raised the funds to purchase the asset by borrowing but what the assessee has paid for it, is the price of the asset. That price cannot change by any event subsequent to the acquisition of the asset. In our judgment the manner or mode of repayment of the loan has nothing to do with the cost of an asset acquired by the assessee for the purpose of his business. We hold that the questions were rightly answered by the High Court. The appeals are dismissed."



13. Reliance is also placed by the learned Senior Standing Counsel for the Revenue on the latest decision of a Division Bench of this Court in the case of Tmt.D.Zeenath Vs. ITO, Ward-I(1), Nagapattinam [reported in (2019) 105 Taxmann.com 298] wherein it was held that where the property was mortgaged by the assessee after he had acquired the property, the amount paid by the assessee to discharge the mortgage debt by sale of the said property could not be treated as cost of acquisition so as to allow the same as deduction under Section 48 of the Act.

14. The learned counsel for the assessee contends that the decision in the case of Tmt.D.Zeenath could not be applied to the facts of the present case, as it was a case where the assessee mortgaged the property after acquiring.

15. In our considered view, there may not be any necessity for this Court to decide these two questions namely (i) with regard to interest on borrowed funds for acquiring capital asset and whether it should be treated as cost of acquisition for computing the capital gain and (ii) with regard to indexation of interest, since we affirmed the order passed by the Tribunal remanding the matter to the Assessing Officer to examine the correctness of the payment of interest.

16. In fact, the Assessing Officer, while completing the assessment under Section 143 read with Section 147 of the Act, held that there was no agreement between the lender and the recipients as to the date of repayment, rate of interest, for which, money is lent, etc. Therefore, the Assessing Officer held that the plea raised by the assessee that they availed the loans from five of their sister concerns at different rates of interest is only an afterthought to reduce the capital gains tax liability.

17. The Tribunal remanded the matter for a fresh consideration to examine the genuineness of the transaction. Thus, unless and until the assessee is able to succeed before the Assessing Officer in the de novo proceedings to be conducted on remand, the question of considering as to whether the interest on borrowed funds should be treated as cost of acquisition and as to whether the assessee is entitled to indexation of interest would not arise. Thus, in our considered view, in the light of our decision to approve the order of remand for examining the genuineness of the loan transactions, the two issues pointed out above have become academic and are not required to be answered at this juncture.



18. Mr.M.Swaminathan, learned Senior Standing Counsel for the Revenue has pointed out that the Tribunal followed the decision in the case of K.Rajagopala Rao, which was rendered without noticing the decision in the case of Tata Iron & Steel Company Limited.

19. Per contra, the learned counsel for the assessee submits that while deciding the issue in the case of K.Rajagopala Rao, the Division Bench of this Court confirmed the decision of the Tribunal, which relied upon the decision of the Hon'ble Supreme Court in the case of Challapalli Sugars Limited Vs. CIT [reported in (1975) 98 ITR 167 (SC)].

20. In turn, it is the submission of Mr.M.Swaminathan, learned Senior Standing Counsel for the Revenue that the decision in the case of Challapalli Sugars Limited is entirely on different set of facts and that the Tribunal, in the decision in the case of K.Rajagopala Rao, erred in relying upon the decision in the case of Challapalli Sugars Limited and that the decision in the case of Tata Iron & Steel Company Limited lays down the correct position.

21. In any event, we have already held that the two issues, which we have pointed out above, are not required to be decided at this juncture, as they have become academic. However, we are conscious of the fact that the Revenue is on appeal as against the finding rendered by the Tribunal by filing TCA.Nos.521 and 522 of 2009. Since we have held that there is no necessity to decide the aforementioned two questions, we have to necessarily interfere with the order passed by the Tribunal, which granted relief to the assessee based on the decision in the case of K.Rajagopala Rao.

22. For the above reasons, TCA.Nos.521 and 522 of 2009 are allowed and the substantial questions of law are answered in favour of the Revenue. Further, we make it clear that subject to the decision that may be taken by the Assessing Officer pursuant to the remand order passed by the Tribunal, which we have affirmed, we leave it open to the assessee to claim deduction under Section 48 of the Act and make a further claim that interest on borrowed funds should be treated as cost of acquisition as well as the aspect regarding indexation of interest and compound interest.

23. TCA.Nos.545 and 546 of 2009 :

These appeals are filed by the assessee challenging the common order dated 28.11.2008, by which, the Tribunal confirmed the order of levy of penalty. We have already extracted the



substantial questions of law, which were admitted. We have heard Mr.M.P.Senthilkumar, learned counsel for the assessee and Mr.M.Swaminathan, learned Senior Standing Counsel for the Revenue.

24. The endeavour of Mr.M.P.Senthilkumar, learned counsel for the assessee is to convince this Court that there was no wilfulness on the part of the assessee to declare the land as an agricultural land for the purpose of claiming the benefits and even though this Court in TCA.Nos.181 and 183 of 2009 affirmed the finding of the Tribunal that the land in question is not an agricultural land, that, by itself, will not be a reason to impose penalty under Section 271(1)(c) of the Act unless and until it is established that the assessee had wilfully concealed the particulars or furnished inaccurate particulars or taken a false plea.

25. The learned counsel for the assessee has placed reliance on the decision in the case of CIT Vs. Gem Granites [reported in (2013) 80 CCH 0160 ChenHC], to which, one of us (TSSJ) was a party.

26. The appeals in TCA.Nos.181 and 183 of 2009 were relating to the quantum assessments for the year 2001-02 and 2002-03. Admittedly, the assessee treated the land as a non agricultural land and this aspect has been noted by the Assessing Officer in the following terms :

"Further, in page 3 part 2 of the sale deed, there is a mention that as per agreement dated 29.6.2000, the necessary amount to be paid to the promoters and developers of this plot Sri.R.P. Dharmalingam and Shri.V.Shanmugam for the purpose of filling sand, leveling, forming roads, carrying out other developmental activities and the approval of CMDA and other local bodies should be paid by you directly to them in time and you should obtain the necessary receipt for this separately subject to this condition the property as per schedule is handed over to you. Therefore, the intention of both purchaser and seller are not conduct agricultural operations in the said land, but to convert the land into house sites for sale.



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Though the assessee claims that the land as agricultural and situated in a village, it is within the area marked in CMDA map and urban land tax has been paid. The agricultural operations have been abandoned because the water is salty and no agricultural operations even ploughing and tilling has been done and it remains as a barren land. There is only one bore well for a vast land of this area, that too, has only salt water. Neither there is any big well for irrigation purpose nor there is any farm house. Further, it is not a stop gap arrangement to continue the agricultural operations in future. The CMDA and local bodies permission has been sought through developers to convert the land into house plots. Not even single rupee has been earned for years together by way of agricultural production. The land has been plotted and roads laid before the sale, the land very well situate in a developed area where industries and colleges have come up and land is sold on cent basis, which is normally the case in the sale of house sites only. The purchaser is a housing cooperative society purchasing land for promotion of plots for house construction. On local enquiry, it was found that house sites have been booked/sold out before 06.11.2002 itself the date of which, VAO gave a certificate mentioned earlier. All these factors got to show that it is a non agricultural land and also situated in urban developed area and therefore, it is only a capital asset."

27. By order dated 12.7.2019, in TCA.Nos.181 and 183 of 2009, we affirmed the said finding and held that the land is a non agricultural land. In such circumstances, it has to be seen as to whether there is any wilfulness on the part of the assessee. The above finding of fact recorded by the Assessing Officer will clearly show that as early as 29.6.2000, there was an agreement with third parties for converting the land into housing plots by filling sand, levelling, forming roads, carrying out other developmental activities.



28. To be noted, we are concerned with the assessment year 2001-02. Therefore, when the penalty proceedings were initiated, the Assessing Officer was fully justified in holding that the assessee was consciously aware of the real position and knowingly furnished inaccurate particulars of income in the revised return. The assessee is not an individual, but a company, which is an association of persons consisting of other corporate giants. Therefore, there is no reason to interfere with the factual finding recorded by the Assessing Officer stating that the assessee was consciously aware of real position and knowingly furnished inaccurate particulars. The CIT(A) reversed the order of the Assessing Officer on the ground that the Assessing Officer proceeded on the assumption that the assessee was guilty. When the correctness of the same was examined, in our considered view, the Tribunal rightly held that there is a wilful concealment. We find that there is absolutely no ground to interfere with the common order passed by the Tribunal. Since we have already approved the finding recorded by the Tribunal, which is on re-appreciation of facts, we find that the decision in the case of Gem Granites will not be of any assistance to the case of the assessee.

29. In fine, TCA.Nos.181 to 184 of 2009 are disposed of to the extent indicated above. TCA.Nos.521 and 522 of 2009 are allowed. TCA.Nos.545 and 546 of 2009 are dismissed. No costs. Consequently, the connected MPs are also dismissed.

30. It is relevant to point out that a Division Bench of this Court, vide two separate orders dated 24.8.2009 respectively in MP.No.1 of 2009 in TCA. No.545 of 2009 and MP.No.2 of 2009 in TCA. No.546 of 2009, while granting stay, directed the assessee to deposit a sum of Rs.10 lakhs and Rs.5 lakhs respectively without prejudice to their contentions in the appeals. It is not known as to whether the said amounts were deposited or not. If the deposits were already made, it is well open to the Assessing Officer to make adjustments, if any and proceed further to recover the balance amounts and if not, it is well open to the Assessing Officer to proceed to recover the penalty imposed.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar



RS

To

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1.The Income Tax Appellate Tribunal,
Madras 'A' Bench.

2.The Income Tax Officer,
Ward-VIII(2), Chennai-6.

3.The Commissioner of Income Tax (Appeals)IX,
Chennai 600 34.

+2cc to Mr.Philip George, Advocate SR.68788, 68787

+4cc to Mr.M.Swaminathan, Advocate Sr.68560, 68561, 68558, 68559

TCA.Nos.181 to 184, 521,
522, 545 & 546 of 2009
and connected MPs

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