आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"D" BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./**ITA No.586/Mds/2014**

&

आयकर अपील सं./**ITA No.610/Mds/2015**

निर्धारण वर्ष / Assessment Years : 2009-10 & 2010-11

M/s Roca Bathroom Products Pvt. Ltd., (Formerly Parryware Roca Pvt. Ltd.), KGN Towers, 4th floor, Ethiraj Salai, Egmore, Chennai - 600 105. PAN : AAACE 9982 E (अपीलार्थी/Appellant)	v.	(1) The Joint Commissioner of Income Tax, Company Range – V, Chennai - 600 034. (2) The Assistant Commissioner of Income Tax, Large Taxpayer Unit – I, Chennai. (प्रत्यर्थी/Respondents)

आयकर अपील सं./**ITA No.1169/Mds/2014**

&

C.O. No. 55/Mds/2014

निर्धारण वर्ष / Assessment Year : 2009-10

The Deputy Commissioner of Income Tax, Company Circle – V(4), Chennai - 600 034. (अपीलार्थी/Appellant)	v.	M/s Parryware Roca Pvt. Ltd., Dare House, No.234, NSC Bose Road, Chennai - 600 034 (Respondent & Cross-objector)

अपीलार्थी की ओर से/Appellant by : Shri Raghunathan Sampath, Advocate

प्रत्यर्थी की ओर से/Respondent by : Dr. Milind Madhukar Bhusari, CIT

सुनवाई की तारीख/Date of Hearing : 13.10.2015

घोषणा की तारीख/Date of Pronouncement : 18.12.2015

आदेश /O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

Both assessee and Revenue have filed appeals against the order of the Assessing Officer dated 16.01.2014. The assessee has also filed a cross-objection. Therefore, we heard these appeals and the cross-objection together and disposing of the same by this common order.

2. Let's first take the assessee's appeals in I.T.A. No.586/Mds/2014 and I.T.A. No.610/Mds/2015.

3. Shri Raghunathan Sampath, the Ld.counsel for the assessee, submitted that the assessee-company is established by Roca Sanitaria S.A. Spain and EID Parry Limited in June, 2006, as a joint venture company. In fact, Roca Sanitaria S.A. Spain and EID Parry Limited were having equal shares in the assessee-company. During the assessment year 2009-10, Roca Investment S.L. purchased 47% of stake in the assessee-company from EID Parry Limited, thereby Roca Group's stake in the assessee-company increased to 97%. According to the Ld. counsel, the assessee-company engaged itself in the business of manufacturing and

distribution of Parryware and Roca sanitary ware and taps. The assessee, in fact, imported finished goods from its associate enterprise for resale in India. According to the Ld. counsel, to determine the Arm's Length Price of imported finished goods, the assessee adopted Resale Price Method as most appropriate method. The Transfer Pricing Officer, however, adopted Transaction Net Margin Method using Berry Ratio as profit level indicator. According to the Ld. counsel, in the assessment year 2008-09, Resale Price Method was accepted by the Transfer Pricing Officer as most appropriate method. A copy of the order is available at pages 285 to 287 of the paper-book. The business model continued in the years under consideration also. Inspite of that the TPO determined the Arm's Length Price in respect of the purchase of finished goods from associate enterprise by adopting Transaction Net Margin Method. The Ld.counsel further submitted that the assessee incurred substantial sales and distribution cost and the major part of such amount reimbursed by Roca Sanitaria S.A. Spain.

4. The Ld.counsel for the assessee further submitted that the assessee is an exclusive distributor of Roca Group products. The assessee procures finished goods on principal to principal basis, performing all sales and marketing functions on its own. The assessee negotiates and enters into contract with third party customers on its own account. The inventory risk analysis of the assessee is explained in the note filed at pages 224 to 227 of the paper-book. According to the Ld. counsel, the assessee is a full-fledged risk bearing distributor.

5. Inspite of the clear and categorical function performed by the assessee, according to the Ld.counsel for the assessee, the Transfer Pricing Officer observed in the transfer pricing order as if the assessee is a 'captive', 'routine', full-fledged distributor at para 6.1.3. Referring to para 6.2 of the transfer pricing order, the Ld.counsel submitted that the Assessing Officer again classified the assessee as 'routine' distributor and also a service provider. Again in para 6.2.2, the Transfer Pricing Officer classified the assessee as an agent. Further, referring to para 6.2.4 of the transfer pricing

order, the Ld.counsel submitted that the assessee was classified as ‘captive’ ‘distributor’ and ‘agent’ for the associate enterprise.

6. Referring to the observation made in the order of Dispute Resolution Panel at page 8, the Ld.counsel for the assessee submitted that the DRP observed that the assessee-company performed all the valuable functions with risks as an independent entity. Therefore, according to the Ld. counsel, both TPO and Dispute Resolution Panel could ascertain the exact functions of the assessee and they have assigned multiple characterization. Due to misunderstanding of the functions and risks involved, the Transfer Pricing Officer and the Dispute Resolution Panel proceeded to change transfer pricing method and profit level indicator to determine the Arm's Length Price of the purchases made by the assessee from the associate enterprise. Therefore, according to the Ld. counsel, the Transaction Net Margin Method adopted by the Dispute Resolution Panel cannot be a correct method. According to the Ld. counsel, the Resale Price Method is the most appropriate method in view of the functions performed by the assessee-company.

7. The Ld.counsel for the assessee further submitted that the Assessing Officer adopted Berry Ratio as Profit Level Indicator. Under the Transaction Net Margin Method, by referring to para 2.30 of the OECD guidelines, the Transfer Pricing Officer selectively referred to the OECD Guidelines without completely reading para 2.30 of the OECD Guidelines. Referring to para 2.30 of the OECD Guidelines, the Ld.counsel submitted that the resale price margin is more appropriate where it is realized within a short time of the reseller's purchase of the goods. According to the Ld. counsel, as per the OECD Guidelines, for application of Resale Price Method, the tested party should have minimal time between original purchase and resale. According to the Ld. counsel, the year under consideration is just second year of operation of the assessee's distribution. Therefore, the sales/stock turnover of the goods were so low. Subsequently, in future years the stock position was significantly improved.

8. Referring to page 10 of the transfer pricing order, the Ld.counsel for the assessee submitted that the Transfer Pricing Officer placed reliance at para 2.31 of the OECD Guidelines. The

Assessing Officer has taken the selective routine OECD Guidelines without considering para 2.31. Referring to para 2.31 of the OECD Guidelines, the Ld.counsel submitted that in case a distributor engages in commercial activity, the gross profit earned by it would need to be compared to distributor's performing minimal function. The Transfer Pricing Officer accepted the comparables selected by the assessee in the transfer pricing study and used the same comparables to make transfer pricing adjustment.

9. The Ld.counsel for the assessee further submitted that the Assessing Officer has also referred to the decision of Du Pont case. According to the Ld. counsel, Du Pont is a company in Switzerland. The Transfer Pricing Officer quoted that this Switzerland company by taking possession of inventory had acted as full-fledged distributor for its United States parent company. According to the Ld. counsel, Du Pont was the world's largest chemical company and intended to establish a market in Europe. Du Pont de Nemours International S.A. was established intentionally located in a low tax jurisdiction in Switzerland, sheltered from US income-tax, to finance its European expansion. Dr. Charles Berry arguing for the US

Revenue, used Berry Ratio to demonstrate that the operating expenses of the Du Pont company was so low that it did not have to spend as many dollars to provide service and otherwise operate its business as distributors who bought and sold products and services at prices determined by free market forces. The Ld.counsel further clarified that Berry Ratio is an appropriate profit indicator to test the transfer pricing rate of limited risk distributor with guaranteed operational performance. In the case before us, according to the Ld. counsel, Roca India operates as a full-fledged distributor performing all functions and bears all risks relating to the distribution function. In such a scenario, the application of Berry Ratio is inappropriate in the present case. Referring to the decision of Delhi Bench of this Tribunal in GAP International Sourcing (India) Ltd. v. ACIT (2012) 25 Taxmann.com 414, the Ld.counsel submitted that the Transfer Pricing Officer placed reliance on the decision of Delhi Bench of this Tribunal for application of Berry Ratio. According to the Ld. counsel, in the case before Delhi Bench, the service provider did not have title to the goods. Therefore, the Delhi Bench of the Tribunal found that Berry Ratio is a correct method to determine the profit indicator. In the case before us, the title to the

goods rest with the assessee. Therefore, Berry Ratio cannot be applied in respect of functions performed by the assessee-company.

10. On the contrary, Dr. Milind Madhukar Bhusari, the Ld. Departmental Representative, submitted that admittedly the assessee-company is a joint venture of Roca Sanitaria S.A. Spain and EID Parry Limited. Initially, EID Parry Limited had 50% shares. However, on 16th July, 2008, Roca Investment S.L. purchased 47% of the shares from EID Parry Limited. Accordingly, Roca Investment S.L. became 97% shareholder in the assessee-company. The assessee-company claims that it is a distributor for Roca products. Referring to the agreement between Roca Sanitaria S.A. Spain and the assessee, the Ld. D.R. submitted that the assessee has to purchase the goods at the price and condition quoted by Roca Sanitaria S.A. Spain. Referring to the contention of the assessee that the assessee is negotiating with third party customers, the Ld. D.R. pointed out that Roca is a brand product which has its own tag price and the distributor is guided by the seller's manual provided by the manufacturer. This is evident from

the agreement entered into between the assessee and Roca Sanitaria S.A. Spain. There is no credit risk associated with assessee-company. The assessee-company in fact provides an extensive market support function by utilizing the manpower resources available with the assessee. The market support service included advertisement, brand promotion activity of Roca Group. In fact, Roca Group has reimbursed the expenses without any marker. The goods were supplied at the convenience of Roca Sanitaria S.A. Spain and not at the requirement of the assessee. The assessee-company has no say in the purchase price. Therefore, according to the Ld. D.R., Resale Price Method would not give correct Arm's Length Price.

11. Referring to OECD Guidelines, more particularly para 2.31, the Ld. D.R. pointed out that Transaction Net Margin Method would be the most appropriate method to determine the Arm's Length Price of the goods purchased by the assessee from associate enterprise. Referring to Berry Ratio, the Ld. D.R. pointed out that the functions carried out by the assessee-company are not proportionate to the sale. According to the Ld. D.R., the most

appropriate method has to be determined on the facts of the case on year to year basis. Therefore, merely because the Transfer Pricing Officer accepted the method adopted by the assessee for earlier assessment year that does not mean that the same has to be adopted for the year under consideration also. According to the Ld. D.R., the assessee incurred expenses in advertisement, marketing, sales promotion which were subsequently reimbursed by Roca Sanitaria S.A. Spain. The Ld. D.R. further submitted that the assessee used the tangible assets for the purpose of carrying out the distribution apart from the intangible assets such as trained manpower and managerial power and had human resources. These are all economic factors which need to be taken into consideration. According to the Ld. D.R., an independent entrepreneur would do everything in a limit so that gross profit is enough to take care of these expenditures and also leave some residual amount as profit. According to the Ld. D.R., the gross profit is not enough to take care of even the expenditure incurred by the assessee in respect of sale of Roca products.

12. Referring to the order of the Dispute Resolution Panel, more particularly page 9, the Ld. D.R. submitted that the table produced by the Dispute Resolution Panel clearly indicates that the gross profit earned by the assessee is not sufficient to meet the expenditure for distributing the Roca products. The Roca product, being a premium brand, the assessee has no leverage in the resale. Though the assessee claims that it is doing business independently, there is no independence in the affairs of the assessee. The assessee is fairly dependent on associate enterprise to carry out its business. Therefore, the Dispute Resolution Panel has rightly upheld the Transaction Net Margin Method as most appropriate method.

13. We have considered the rival submissions on either side and perused the relevant material available on record. For the purpose of determining the most appropriate method, one of the factors to be taken into consideration is the function performed by the parties. Other than the function performed, assets employed are to be included, risks assumed by the enterprises are also need to be taken into consideration. In the case before us, the assessee

claims that it is an independent distributor, assuming risks in the distribution business. If it is an independent distributor, it is not known why Roca Sanitaria S.A. Spain reimbursed substantial sales distribution and advertisement cost to the assessee-company. Admittedly, Roca Sanitaria S.A. Spain reimbursed major part of the cost involved by the assessee. As rightly submitted by the Ld.counsel for the assessee, the Transfer Pricing Officer confused himself in characterization of the assessee's functions as captive, routine, full-fledged distributor at one place and routine distributor in another place. The Transfer Pricing Officer is also characterizing the assessee as an agent in one place and captive distributor and agent in another place. For the purpose of determining most appropriate method for determining Arm's Length Price, the functions performed by the assessee need to be ascertained. In other words, whether the assessee is an independent distributor or it acts only as an agent without any risk has to be ascertained. If assessee is an independent distributor having all the risks, then this Tribunal is of the considered opinion that Resale Price Method would be the most appropriate method. However, the authorities below could not determine the actual functions performed by the

assessee. In view of the misunderstanding of the facts by the Transfer Pricing Officer and Dispute Resolution Panel, this Tribunal is of the considered opinion that the matter needs to be reconsidered by the Dispute Resolution Panel once again on the basis of the agreement entered into between the assessee and Roca Sanitaria S.A. Spain. In other words, the Dispute Resolution Panel shall re-examine the issue afresh on the basis of the agreement entered into between the parties and determine the actual function performed by the assessee. The Dispute Resolution Panel has to find out whether the assessee functions only as an independent distributor or as agent of Roca Sanitaria S.A. Spain. Since these facts were not considered by the Transfer Pricing Officer or Dispute Resolution Panel, this Tribunal is of the considered opinion that the matter needs to be re-examined. Accordingly, the orders of the Assessing Officer are set aside and the Assessing Officer shall refer the matter again to the Dispute Resolution Panel. The Dispute Resolution Panel shall examine the agreement between the parties and other transactions between the assessee and Roca Sanitaria S.A. Spain and thereafter determine the actual function performed by the assessee apart from the assets

employed in the transaction, including the risks assumed by the assessee, and thereafter decide the matter in accordance with law. The Dispute Resolution Panel shall give sufficient opportunity to the assessee before giving direction to the Assessing Officer under Section 144C of the Income-tax Act, 1961 (in short 'the Act').

14. Now coming to Revenue's appeal in I.T.A. No.1169/Mds/2014, the only issue arises for consideration is with regard to disallowance under Section 40(a)(ia) of the Act for short deduction of tax at source.

15. Dr. Milind Madhukar Bhusari, the Ld. Departmental Representative, submitted that the Dispute Resolution Panel directed the Assessing Officer not to make any disallowance in respect of Bandwidth charges paid to BSNL and Tulip Telecom Ltd. The assessee deducted tax under Section 194C of the Act. However, the Assessing Officer found that the payment made by the assessee is for the use of commercial equipment, therefore, tax has to be deducted under Section 194J of the Act and not under Section 194C of the Act. The Dispute Resolution Panel directed the Assessing Officer on the basis of the judgment of Calcutta High

Court in S.K. Tekriwal v. ITO (48 SOT 515). Referring to the judgment of Madras High Court in Viswas Promoters P. Ltd. (323 ITR 114), the Ld. D.R. submitted that the judgment of Calcutta High Court is not binding. Therefore, even for short deduction of TDS, the Assessing Officer has to disallow the payment under Section 40(a)(ia) of the Act.

16. We have heard Shri Raghunathan Sampath, the Ld.counsel for the assessee also. We have also perused the relevant material available on record. The Assessing Officer found that the payment made to BSNL and Tulip Telecom Ltd. is for the use of the commercial equipment, therefore, tax has to be deducted under Section 194J of the Act. It is an admitted fact that the assessee has deducted tax under Section 194C of the Act. Therefore, it is not a case of non-deduction of tax but, it is a case of short deduction. We have carefully gone through the provisions of Section 40(a)(ia) of the Act. Section 40(a)(ia) of the Act clearly says that disallowance has to be made on the failure of the assessee to deduct tax in respect of the payment which is otherwise to be deducted under the provisions of Income-tax Act. In this case, in fact, the assessee has

deducted tax under Section 194C of the Act. The Assessing Officer found that the tax has to be deducted under Section 194J of the Act. Therefore, the question arises for consideration is when the assessee made a TDS under Section 194C of the Act instead of Section 194J of the Act, whether any disallowance can be made under Section 40(a)(ia) of the Act for short deduction of tax? An identical issue was considered by the Cochin Bench of this Tribunal in Apollo Tyres Ltd. v. DCIT in I.T.A. No.31 & 74/Coch/2010 dated 29th May, 2013. The Cochin Bench found that for short deduction of tax, there cannot be any disallowance under Section 40(a)(ia) of the Act. In fact, the Cochin Bench further observed as follows:-

> "8. We have considered the rival submissions on either side and also perused the material available on record. We have also carefully gone through the provisions of section 40(a)(ia) of the Act, which reads as follows:
> "(ia) any interest, commission or brokerage, rent, royalty, fees for professional services or fees for technical services payable to a resident, or amounts payable to a contractor or sub-contractor, being resident, for carrying out any work (including supply of labour for carrying out any work), on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid on or before the due date specified in sub-section (1) of section 139:
> **Provided** that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date

specified in sub-section (1) of section 139, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.
Explanation.- For the purposes of this sub-clause.-
(i) "commission or brokerage" shall have the same meaning as in clause (i) of the Explanation to section 194H;
(ii) "fees for technical services" shall have the same meaning as in Explanation 2 to clause (vii) of subsection (1) of section 9;
(iii) "professional services" shall have the same meaning as in clause (a) of the Explanation to section 194J;
(iv) "work" shall have the same meaning as in Explanation III to section 194C;
(v) "rent" shall have the same meaning as in clause (i) to the Explanation to section 194-I;
(vi) "royalty" shall have the same meaning as in Explanation 2 to clause (vi) of sub-section (1) of section 9;"
Therefore, section 40(a)(ia) enables the assessing officer to disallow any payment towards interest, commission or brokerage, fee for professional service, fees for technical service etc. on which tax is deductible at source under Chapter XVIIB and if such tax has not been deducted or after deduction has not been paid.

9. We have also carefully gone through the provisions of section 201(1A) which reads as follows:
"(1A) Without prejudice to the provisions of sub-section (1), if any such person, principal officer or company as is referred to in that sub-section does not deduct the whole or any part of the tax or after deducting fails to pay the tax as required by or under this Act, he or it shall be liable to pay simple interest,-
(i) At one per cent for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is deducted; and
(ii) At one and one-half per cent for every month or part of a month on the amount of such tax from the date on which such tax was deducted to the date on which such tax is actually

paid, and such interest shall be paid before furnishing the statement in accordance with the provisions of subsection (3) of section 200.)"

Section 201(1A) enables the assessing officer to levy interest in case the tax was not deducted either wholly or partly or after deduction it was not paid as required under the Act. In fact, the provisions of section 201(1A) was amended by Finance Act, 2001 with retrospective effect from 01-04-1962 after the judgment of the Andhra Pradesh High Court in P.V. Rajagopal (supra)

10. As rightly pointed out by the ld.senior counsel for the assessee in section 201(1A) the legislature intended to levy interest even in case of short deduction of tax. In other words, if any part of the tax which required to be deducted was found to be not deducted then interest u/s 201(1A) can be levied in respect of that part of the amount which was not deducted. Whereas the language of section 40(a)(ia) does not say that even for short deduction disallowance has to be made proportionately. Therefore, the legislature has clearly envisaged in section 201(1A) for levy of interest on the amount on which tax was not deducted whereas the legislature has omitted to do so in section 40(a)(ia) of the Act. In other words, the provisions of section 40(a)(ia) does not enable the assessing officer to disallow any proportionate amount for short deduction or lesser deduction.

11. We have carefully gone through the judgment of the Andhra Pradesh High Court in the case of P.V. Rajagopal (supra). While considering the provisions of section 201 which stood for the assessment years 1989-90 to 1993-94, the Andhra Pradesh High Court found that there is nothing in the section to treat the employer as the defaulter where there is a shortfall in the deduction of tax at source. For the purpose of convenience, we are reproducing below paragraphs 34 and 35 of the judgment of the Andhra Pradesh High Court:

"34. ……. We may now read the provisions of section 201.

"Consequences of failure to deduct or pay.- (1) If any such person and in the cases referred to in section 194, the principal officer and the company of which he is the principal officer does not deduct or after deducting fails to pay the tax as required by or under this Act, he or it shall, without prejudice to any other consequences which he or it may incur, be deemed to be an assessee in default in respect of the tax: Provided that no penalty shall be charged under section 221 from such person, principal, officer or company unless the Assessing Officer is satisfied that such person or principal officer or company, as the case may be, has without good and sufficient reasons failed to deduct and pay the tax.
(1A) Without prejudice to the provisions of sub-section (1), if any such person, principal officer or company as is referred to in that sub-section does not deduct or after deducting fails to pay the tax as required by or under this Act, he or it shall be liable to pay simple interest at fifteen per cent per annum on the amount of such tax was deductible to the date on which such tax is actually paid.
(2) Where the tax has not been paid as aforesaid after it is deducted, the amount of the tax together with the amount of simple interest thereon referred to in subsection (1A) shall be a charge upon all the assets of the person, or the company, as the case may be, referred to in sub-section (1)."

35. This section has two limbs, one is where the employer does not deduct the tax and the second where after deducting the tax fails to remit it to the Government. There is nothing in this section to treat the employer as the defaulter where there is a shortfall in the deduction. The Department assumes that where the deduction is not as required by or under this Act, there is a default. But the fact is that this expression 'as required by or under this Act' grammatically refers only to the duty to pay the tax that is deducted and cannot refer to the duty to deduct the tax. Since this is a penal section, it has to be strictly construed and it cannot be assumed that there is a duty to deduct the

tax strictly in accordance with the computation under the Act and if there is any shortfall due to any difference of opinion as to the taxability of any item the employer can be declared to be an assessee in default."

12. After considering the provisions of section 201(1A) before amendment by Finance Act, 2001, the Andhra Pradesh High Court found that "as required under this Act" does not refer to mean to deduct tax in accordance with computation under the Act. In fact, the Parliament amended the section 201(1A) after this judgment of Andhra Pradesh High Court by incorporating the words "the whole or any part of tax" by Finance Act, 2001. The Division Bench of the Mumbai Bench of this Tribunal in the case of Chandabhoy and Jassobhoy (supra) had an occasion to consider an identical issue. The Mumbai Bench found that short deduction of TDS, if any, could have been considered as liability under the Income-tax Act as due from the assessee. Therefore, the disallowance of the entire expenditure, whose genuineness was not doubted by the assessing officer is not justified. A similar view was also taken by the Kokatta Bench of this Tribunal in the case of CIT vs M/s S.K. Tekriwal (supra). In this case, on appeal by the revenue, the Calcutta High Court confirmed the order of the Kolkatta Bench of the Tribunal.

13. In view of the above, this Tribunal is of the considered opinion that section 40(a)(ia) does not envisage a situation where there was short deduction / lesser deduction as in case of section 201(1A) of the Act. There is an obvious omission to include short deduction / lesser deduction in section 40(a)(ia) of the Act. Therefore, this Tribunal is of the considered opinion that in case of short / lesser deduction of tax, the entire expenditure whose genuineness was not doubted by the assessing officer, cannot be disallowed. Accordingly, the orders of lower authorities are set side and the entire disallowance is deleted."

In view of the above decision of the Cochin Bench of this Tribunal, this Tribunal do not find any reason to interfere with the order of the Dispute Resolution Panel and accordingly the same is confirmed.

17. The assessee has also filed a cross-objection. The assessee has filed the cross-objection in support of the order of the Dispute Resolution Panel. The cross-objection is filed only to support the finding of Dispute Resolution Panel in respect of disallowance under Section 40(a)(ia) of the Act, this Tribunal is of the considered opinion, the cross-objection filed by the assessee is not maintainable. Accordingly, the same is dismissed as not maintainable.

18. In the result, I.T.A. Nos.586/Mds/2015 & 610/Mds/2015 are allowed for statistical purposes. However, the Revenue's appeal in I.T.A. No.1169/Mds/2014 and C.O. No.55/Mds/2014 are dismissed.

Order pronounced on 18th December, 2015 at Chennai.

sd/-	sd/-
(ए. मोहन अलंकामणी)	(एन.आर.एस. गणेशन)
(A. Mohan Alankamony)	(N.R.S. Ganesan)
लेखा सदस्य/Accountant Member	न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 18th December, 2015.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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