

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**" D " BENCH, CHENNAI**

श्री चंद्र पूजारी, लेखा सदस्य एवं  
श्री चल्ला नागेन्द्र प्रसाद, न्यायिक सदस्य के समक्ष  
BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER &  
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
आयकर अपील सं./ **I.T.A. No.527/Mds/2015**  
(निर्धारण वर्ष / Assessment Year : 2011-2012)

Sri Mahalakshmi Shares Pvt. Ltd,  
85, Armenian Street,  
Chennai 600 001.

The Assistant Commissioner of  
Income Tax,  
Company Circle VI(4),  
Chennai 600 034.

[PAN:AAACS 9439G]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri.R.T. Vijayaraghavan, C.A.

प्रत्यर्थी की ओर से / Respondent by : Shri. N. Madhavan, IRS, JCIT.

सुनवाई की तारीख/Date of hearing : 16.04.2015

घोषणा की तारीख /Date of Pronouncement : 16.04.2015

**आदेश / O R D E R**

**PER CHANDRA POOJARI, ACCOUNTANT MEMBER**

This appeal filed by assessee is directed against the order of  
the Commissioner of Income Tax (Appeals)-15, Chennai, dated  
23.12.2014.

2. The only grievance of the assessee in this appeal is with regard to disallowance of commission payments made to sub brokers u/s. 40a(ia) and read along with section 194H.

3. After hearing both the parties, we are of the opinion that a similar issue came up for consideration before this Tribunal in assessee's own case for the assessment year 2009-2010 in ITA No.351/Mds/2013 and C.O.No.47/Mds/2013. Vide order dated 22.08.2013, the Tribunal has decided the issue in favour of the assessee by observing as under:-

*“8. We have heard both sides, perused the materials on record and have gone through the orders of authorities below. In this case, the ld. CIT(Appeals) has given a categorical findings that the provisions of section 194H are not applicable to assessee's case. The ld. CIT(Appeals) has given a similar finding for the assessment year 2008-09 also. The Department has not preferred any appeal against the order of the ld. CIT(Appeals) for the assessment year 2008-09 and the ld. DR has fairly submitted that the Department had accepted the order of the ld. CIT(Appeals). In view of the above facts and circumstances of the case, we find no reason to interfere with the order passed by the ld. CIT(Appeals) and accordingly, the appeal filed by the Revenue is dismissed”.*

4. Respectfully, following the above order of the Tribunal, we are inclined to decide the issue in favour of the assessee.

5. In result, the appeal of the assessee in ITA No.527/Mds/2015 is allowed.

Order pronounced in the open court at the time of hearing on Thursday, the 16<sup>th</sup> day of April, 2015 at Chennai.

Sd/-

(चल्ला नागेन्द्र प्रसाद )

(CHALLA NAGENDRA PRASAD)

न्यायिक सदस्य/ JUDICIAL MEMBER

चेन्नई/Chennai.

दिनांक/Dated:16.04.2015.

**KV**

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.

Sd/-

(चंद्र पूजारी )

(CHANDRA POOJARI)

लेखा सदस्य/ ACCOUNTANT MEMBER