आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"B" 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 Nos.1676, 1677, 1678 & 1679/Mds/2013**
निर्धारण वर्ष / Assessment Years : 2007-08, 2009 to 2011-12

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| The Assistant Commissioner of Income Tax, Central Circle IV(2), Chennai - 600 034. | v. | Shri Mustaq Ahmed, No.4/52, 4th South Street, Kapaleeswar Nagar, Neelangarai, Chennai - 600 041. |
| | | PAN : ADEPA 1181 B |
| (अपीलार्थी/Appellant) | | (प्रत्यर्थी/Respondent) |

आयकर अपील सं./**ITA No.1680/Mds/2013**
निर्धारण वर्ष / Assessment Year : 2011-12

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| The Assistant Commissioner of Income Tax, Central Circle IV(2), Chennai - 600 034. | v. | Shri Ishtiaq Ahmed, No.4/52, 4th South Street, Kapaleeswar Nagar, Neelangarai, Chennai - 600 041. |
| | | PAN : AAGPI 2739 C |
| (अपीलार्थी/Appellant) | | (प्रत्यर्थी/Respondent) |

अपीलार्थी की ओर से/Appellant by : Shri A.B. Koli, JCIT
प्रत्यर्थी की ओर से/Respondents by : Sh. N. Devanathan, Advocate

सुनवाई की तारीख/Date of Hearing : 27.11.2015
घोषणा की तारीख/Date of Pronouncement : 07.01.2016

**आदेश /O R D E R**

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

All the appeals filed by the Revenue, in respect of two different assessees, are directed against the respective orders of the Commissioner of Income Tax (Appeals) dated 14.06.2013. Since common issue arises for consideration in all these appeals, we heard these appeals together and disposing of the same by this common order.

2. First let's take Revenue's appeals in the case of the assessee Shri Mustaq Ahmed.

3. Shri A.B. Koli, the Ld. Departmental Representative, submitted that the first issue arises for consideration is with regard to addition made by the Assessing Officer under Section 2(22)(e) of the Income-tax Act, 1961 (in short 'the Act'). According to the Ld. counsel, the assessee is a shareholder and Director in M/s Adampur Distributors Pvt. Ltd., Chennai, having 99.98% shares. From the balance sheets, it is seen that M/s Mustafa Gold Mart, a proprietary concern of the assessee, was shown as creditor in the year ending 31.03.2009 to the extent of ₹1,28,32,146/-. During the financial year 2008-09, the assessee received approximately 2.92

Crores from Adampur Distributors Pvt. Ltd. After perusing the Profit & Loss account of the Adampur Distributors Pvt. Ltd., the Assessing Officer found that the total export sales was of ₹4,83,83,050/-. This sale constituted export of food products to the extent of ₹4.03 Crores and export of perishable goods to the extent of ₹62.33 Crores. The Assessing Officer further found that funds were transferred from M/s Adampur Distributors Pvt. Ltd. to M/s Mustafa Gold Mart on various dates. The Assessing Officer further found that transaction between M/s Mustafa Gold Mart, the proprietary concern of the assessee and M/s Adampur Distributors Pvt. Ltd. was not a business transaction and it was a loan and advance. Therefore, the Assessing Officer treated the funds advanced to the assessee as deemed dividend under Section 2(22)(e) of the Act. In fact, for the assessment year 2009-10, a sum of ₹3,55,851/- was treated as deemed dividend under Section 2(22)(e) of the Act. Similarly, for the assessment year 2010-11, a sum of ₹68,46,548/- was treated as deemed dividend. For the assessment year 2011-12, a sum of ₹34,06,371/- was treated as deemed dividend. According to the Ld. counsel, in the absence of any business transaction between the proprietary concern of the assessee and M/s Adampur Distributors Pvt. Ltd., the sum advanced by M/s

Adampur Distributors Pvt. Ltd. has to be construed as deemed dividend, therefore, the CIT(Appeals) is not justified in deleting the addition made by the Assessing Officer.

4. On the contrary, Sh. N. Devanathan, the Ld.counsel for the assessee, submitted that M/s Adampur Distributors Pvt. Ltd. was engaged in the business of jewellery upto 2007-08. Later on, the business of M/s Adampur Distributors Pvt. Ltd. was diversified. In order to revive the jewellery business, M/s Adampur Distributors Pvt. Ltd. advanced money to M/s Mustafa Gold Mart for purchasing gold Jewellery. Therefore, according to the Ld. counsel, this is a transaction of purchase of gold jewellery from M/s Mustafa Gold Mart for the purpose of business. The CIT(Appeals), after considering the contention of the assessee, found that the advance paid by M/s Adampur Distributors Pvt. Ltd. is only in the nature of trade transaction, therefore, it cannot be equated to a loan or advance. To establish that the transaction is only a business transaction and the assessee has supplied gold to M/s Adampur Distributors Pvt. Ltd., the CIT(Appeals) verified the copies of ledger account of M/s Mustafa Gold Mart in the books of M/s Adampur Distributors Pvt. Ltd. for the financial years 2000-01 to 2006-07 and

found that the money was advanced only for the purpose of business. According to the Ld. counsel, the assessee had transaction with M/s Adampur Distributors Pvt. Ltd. in gold and sea food products right from the financial year 2000-01. When the transaction is a business transaction, the advance made by M/s Adampur Distributors Pvt. Ltd. cannot be construed as loan or advance. Therefore, the CIT(Appeals) has rightly deleted the addition made by the Assessing Officer.

5. We have considered the rival submissions on either side and perused the relevant material available on record. The Assessing Officer made addition under Section 2(22)(e) of the Act for the assessment years 2009-10 to 2011-12. In fact, for the assessment year 2009-10, a sum of ₹3,55,851/- was added under Section 2(22)(e) of the Act. Similarly, a sum of ₹68,46,548/- and ₹34,06,371/- were added for the assessment year 2010-11 and 2011-12 respectively. It is not in dispute that the assessee is holding 99.98% shares in M/s Adampur Distributors Pvt. Ltd. It is also not in dispute that the assessee received money from M/s Adampur Distributors Pvt. Ltd. The issue arises for consideration is whether the advance made by M/s Adampur Distributors Pvt. Ltd. is

for business transaction or it is a loan or advance. The ledger extract of M/s Adampur Distributors Pvt. Ltd. clearly establishes that M/s Adampur Distributors Pvt. Ltd. purchased gold from M/s Mustafa Gold Mart, a proprietary concern of the assessee. It is also not in dispute that upto 2007-08, M/s Adampur Distributors Pvt. Ltd. engaged in the business of jewellery and later on, the business was diversified. To revive the gold jewellery business, M/s Adampur Distributors Pvt. Ltd. advanced money to M/s Mustafa Gold Mart for purchasing gold jewellery. In fact, M/s Mustafa Gold Mart delivered gold jewellery to M/s Adampur Distributors Pvt. Ltd. In those circumstances, it is obvious that the transaction between M/s Adampur Distributors Pvt. Ltd. and M/s Mustafa Gold Mart, is a business transaction. Hence, the advance paid by M/s Adampur Distributors Pvt. Ltd. to M/s Mustafa Gold Mart cannot be construed either as loan or advance. Therefore, this Tribunal is of the considered opinion that the provisions of Section 2(22)(e) of the Act cannot be applied to a business transaction. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority. Accordingly, the order of the CIT(Appeals) is confirmed.

6. The next ground of appeal is with regard to disallowance made by the Assessing Officer under Section 40A(2)(b) of the Act in respect of the commission paid to Shri Ishtiaq Ahmed.

7. Shri A.B. Koli, the Ld. Departmental Representative, submitted that this issue arises for consideration for the assessment years 2010-11 and 2011-12. The Assessing Officer disallowed a sum of ₹62,77,648/- for the assessment year 2010-11 and another sum of ₹63,28,400/- for the assessment year 2011-12. The Ld. D.R. further submitted that no commission was paid in the previous years. There was no agreement between the assessee and the above said Shri Ishtiaq Ahmed. Shri Ishtiaq Ahmed was examined by the Assessing Officer on 06.02.2013 and he could not explain the basis for determination of the quantum of commission. According to the Ld. D.R., in the earlier years, the above said Shri Ishtiaq Ahmed was paid only salary. The assessee explained before the Assessing Officer that payment of commission to Shri Ishtiaq Ahmed was made in order to create awareness among the people about the fair deals of Mustafa Gold Mart. According to the Ld. D.R., the Assessing Officer found that the commission paid to Shri Ishtiaq Ahmed was excessive and unreasonable.

8. The Ld. Departmental Representative further submitted that the assessee is an individual and Shri Ishtiaq Ahmed is none other than brother of the assessee. In the earlier assessment years, the assessee had paid only salary to Shri Ishtiaq Ahmed the commission was paid for the first time. The assessee has paid commission only to Shri Ishtiaq Ahmed and not to any other employees. The assessee could not explain the benefit derived on the payment of commission. In those circumstances, the Assessing Officer has rightly disallowed the payment of commission by applying the provisions of Section 40A(2)(b) of the Act.

9. On the contrary, Sh. N. Devanathan, the Ld.counsel for the assessee, submitted that the commission was paid to Shri Ishtiaq Ahmed for the service rendered by him. The recipient Shri Ishtiaq Ahmed disclosed the receipt of commission and paid taxes. In fact, the Assessing Officer accepted the income declared by Shri Ishtiaq Ahmed. Therefore, the Assessing Officer cannot take a contrary decision by disallowing the payment in the assessee's hand. According to the Ld. counsel, the payment of commission is not disputed. The question is whether it is excessive or unreasonable. According to the Ld. counsel, after payment of commission, the

profit of the assessee has increased considerably and Shri Ishtiaq Ahmed created awareness about the genuine product of Mustafa Gold Mart. In other words, the fair dealings of Mustafa Gold Mart were propagated among the customers and therefore the general public had awareness about the product of the assessee. Furthermore, when the recipient has paid the tax, there is no reason to disallow the claim in the hands of the assessee.

10. We have considered the rival submissions on either side and perused the relevant material available on record. Admittedly, Shri Ishtiaq Ahmed is none other than brother of the assessee. It is not in dispute that in the earlier assessment years, Shri Ishtiaq Ahmed was paid only salary. During the years under consideration, namely, assessment years 2010-11 and 2011-12, the assessee paid commission to Shri Ishtiaq Ahmed. Therefore, the Assessing Officer doubted the correctness of the payment. As rightly submitted by the Ld.counsel for the assessee, the payment itself is not doubted. The question is whether it is excessive or unreasonable. Merely because the assessee paid salary in the earlier assessment years, it does not mean that the assessee shall not pay commission during the assessment years under

consideration. It is for the assessee to decide whether commission is to be paid to any particular individual or not. In the interest of the assessee and for promoting the business, if the assessee comes to a conclusion that payment of commission is required, then the Assessing Officer cannot step into the shoes of the assessee and say that the payment of commission is not required. In this case, it is not the case of the Revenue that the payment of commission is not required. The only contention of the Assessing Officer is that the payment is unreasonable and excessive. As rightly submitted by the Ld.counsel for the assessee, the recipient Shri Ishtiaq Ahmed has disclosed the receipt of commission and paid taxes. The Assessing Officer accepted the income declared by the above said Shri Ishtiaq Ahmed as commission. In those circumstances, as rightly found by the CIT(Appeals), the disallowance made in the hands of the assessee is not justified. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority. Accordingly, the order of the CIT(Appeals) is confirmed.

11. For the assessment year 2011-12, the Revenue has raised one more ground with regard to addition of ₹5,61,53,855/- under Section 41(1) of the Act.

12. Shri A.B. Koli, the Ld. Departmental Representative, submitted that as on 31.03.2011, the assessee has shown a sum of ₹5,61,53,855/- as sundry credit. The Assessing Officer found that the above credit was outstanding from the assessment year 2005-06. There was no movement in the sundry credit for the last seven years. According to the Ld. D.R., the assessee has not filed any confirmation letter. The assessee explained before the Assessing Officer that all the credits are towards the purchase of gold from respective persons. The assessee has not furnished the address of the creditors. Since the credit was outstanding for more than 7 years, according to the Ld. D.R., the Assessing Officer found that the liability of the assessee ceased to exist. Therefore, according to the Ld. D.R., the credit of ₹5,61,53,855/- has to be treated as income of the assessee.

13. On the contrary, Sh. N. Devanathan, the Ld.counsel for the assessee, submitted that the sundry credit exists from assessment year 2005-06. In fact the credit was accepted for the assessment year 2005-06 and no addition was made. Since the Assessing Officer admitted that the sundry credit existed from assessment year 2005-06, no addition can be made for the assessment year

under consideration. According to the Ld. counsel, if at all any addition can be made, it has to be made for assessment year 2005-06 in which the sundry credit appeared in the books for the first time. The Ld.counsel further submitted that the assessee has produced confirmation letters from some of the creditors. However, the assessee could not furnish confirmation letters from all the creditors since they are in abroad. According to the Ld. counsel, the assessee has established identity of the creditors and admittedly, the liability to repay the amount remains. The Assessing Officer disallowed the claim of the assessee only on the ground that the seven years period has expired. The assessee accepted the liability in the books and therefore, the liability does not cease to exist. All these trade credits existed in the books. Therefore, according to the Ld. counsel, the assessee is liable to pay the money. In the absence of any waiver of the credit by the respective sundry creditors, according to the Ld. counsel, there is no question of any cessation of liability.

14. The Ld.counsel further submitted that the name and address of the creditors were furnished in the course of assessment. Even assuming for argument sake that the sundry creditors cannot

enforce the payment legally, still the liability will not cease to exist. Under the Limitation Act, what is barred is filing of suit and not recovery of the money. Therefore, according to the Ld. counsel, the CIT(Appeals) has rightly deleted the addition made by the Assessing Officer.

15. We have considered the rival submissions on either side and perused the relevant material available on record. The sundry credit of ₹5,61,53,855/- existed from the assessment year 2005-06. It is not the case of the Revenue that the credit was entered in the books of account first time in the year under consideration. Therefore, the genuineness of the credit has to be examined during the assessment year 2005-06 and definitely not in the year under consideration. Even assuming for the argument sake that the assessee has to establish the genuineness of the credits, then the addition has to be made only for the assessment year 2005-06 and not for the year under consideration.

16. In the case before us, the Assessing Officer made deduction on the ground that the sundry credit existed for more than 7 years, therefore, the liability ceased to exist. This Tribunal is of the considered opinion that merely because the credit existed for more

than 7 years, the liability cannot cease automatically. Time for legal suit to recover the amount may be barred under the provisions of Limitation Act, however, the right of the creditor to recover the amount still exists by other modes. In other words, what is barred is filing civil suit to recover the money but the other means are not barred at all. Moreover, the liability is shown in the year under consideration also. Therefore, the assessee accepted liability during the year under consideration. When the assessee accepted the liability, the period of limitation gets extended. In those circumstances, there is no question of any cessation of liability. It is not the case of the Revenue that the creditors waived the amount due to them. In those circumstances, the CIT(Appeals) has rightly deleted the addition. This Tribunal do not find any reason to interfere with the order of the lower authority. According, the order of the CIT(Appeals) is confirmed.

17. Now coming to the appeal in the case of Shri Ishtiaq Ahmed in I.T.A. No.1680/Mds/2013, the first ground of appeal is with regard to addition made on account of unexplained jewellery to the extent of ₹21.49 lakhs.

18. Shri A.B. Koli, the Ld. Departmental Representative, submitted that during the course of search operation, the Revenue authorities found a locker in Andhra Bank, Neelangani Branch, Chennai, and gold jewellery to the extent of 803.400 grms was also found. At the residence of the assessee, the Revenue authorities found gold jewellery to the extent of 342 grms. When the assessee was examined on 22.12.2010, the assessee explained that he had no purchase bill for the jewellery found at the residence and in the locker. The assessee also explained that in the absence of any purchase bill and other documentary evidence to explain the source, he will pay the tax on the value of unexplained Jewellery. Therefore, the Assessing Officer made addition to the extent of ₹21,49,916/-. According to the Ld. D.R., the claim of the assessee was that Sthreedhan received at the time of marriage and gift from brother-in-law are not supported by documentary evidence. In the absence of any documentary evidence to Sthreedhan gift, the Assessing Officer has rightly made the addition, therefore, the CIT(Appeals) is not justified in deleting the addition made by the Assessing Officer.

19. On the contrary, Sh. N. Devanathan, the Ld.counsel for the assessee, submitted that no doubt, the Revenue authorities found jewellery in the locker and at the residence of the assessee. According to the Ld. counsel, at the time of marriage, assessee's wife was given gold jewellery by her parents. It is customary that at the time of marriage gold jewellery should be given to the girls by the parents. Moreover, the assessee's wife had owned gold jewellery even before her marriage. This was also available in the assessee's returns. After the marriage, the assessee's brother-in-law presented gold ornaments to the assessee's wife on various occasions such as marriage, birthday, etc. Therefore, the CIT(Appeals) has rightly deleted the addition made by the Assessing Officer.

20. We have considered the rival submissions on either side and perused the relevant material available on record. Admittedly, during the course of search operation, the Revenue authorities found 803.400 grms of jewellery in the bank locker and another 342 grms of gold jewellery at the residence of the assessee. The main contention of the assessee is that these are jewellery of his wife given by her parents at the time of marriage. It is a customary

practice in this part of the country to present gold jewellery to the girl child by the respective parents during her marriage. The quantity of gold jewellery depends upon the status of the assessee in the society. The assessee, being a businessman, commands respect in the locality where he resides. Therefore, naturally the parents of the girl would give gold jewellery as Sthreedhan property. This is a customary practice which prevails in the country. The Assessing Officer disbelieves the contention of the assessee only on the ground that no documentary evidence was found. It is not known what kind of document can be produced when the girl's parents gifted gold ornaments to her daughter. If it is immovable property like land, then registration of document is compulsory. In the case of property like gold jewellery, it is only the statement of the individual that has to be relied upon. Other than this, this Tribunal is of the considered opinion that the assessee would not be able to produce any documentary evidence to establish that the parents of the assessee's wife presented the gold jewellery to her daughter at the time of marriage. The customary practice that prevails in this part of the country cannot be brushed aside by the Assessing Officer to disbelieve the claim of the assessee. By taking into consideration the customary practice prevails in the country and the

society of the assessee where he resides, this Tribunal is of the considered opinion that the assessee's wife would have received gold jewellery as Sthreedhan property during her marriage and also would have received gifts on the occasions like marriage, birthday, etc. Therefore, this Tribunal is of the considered opinion that the CIT(Appeals) has rightly deleted the addition made by the Assessing Officer. Accordingly, the order of the CIT(Appeals) is confirmed.

21. The next ground of appeal is with regard to disallowance of expenses to the extent of ₹22,04,085/-.

22. Shri A.B. Koli, the Ld. Departmental Representative, submitted that the assessee has declared business income to the extent of ₹41,24,315/- in the form of commission receipt. Admittedly, the commission was received from M/s Mustafa Gold Mart. Against that, the assessee claims expenses of ₹22,04,085/- The assessee could not furnish any details to establish that the expenses were incurred. The assessee claimed before the Assessing Officer that he employed more than ten persons for canvassing on hired vehicle fitted with loud speakers to spread the message to the public to purchase gold from M/s Mustafa Gold Mart

in various part of the city throughout the year. The Assessing Officer found that the statement of the assessee is totally untrue since there was no increase in the turnover of Mustafa Gold Mart during the year under consideration. The assessee has made only self-made vouchers in the name of various individuals. During examination on 06.02.3013, the assessee explained that the assessee could not give the address of the persons said to be employed by him. Inspite of several opportunities, the assessee could not furnish any details regarding expenditure. Therefore, the Assessing Officer disallowed the claim of the assessee.

23. On the contrary, Sh. N. Devanathan, the Ld.counsel for the assessee, submitted that the assessee has paid salary, conveyance and miscellaneous expenses in the course of doing the commission business. According to the Ld. counsel, the assessee employed about ten persons to make advertisement in various part of the city through loud speakers. The assessee employed casual labourers. The assessee could obtain the self-made vouchers from such kind of persons. Therefore, the CIT(Appeals) found that disallowance of 20% of the expenditure would meet the ends of justice. In the absence of any proper vouchers, according to the Ld. counsel, the

CIT(Appeals) restricted the disallowance to 20% of the expenses incurred. Therefore, the Revenue cannot have any grievance at all.

24. We have considered the rival submissions on either side and perused the relevant material available on record. The assessee claims that he was employed as commission agent to publicize the product of M/s Mustafa Gold Mart. The assessee claims that he promoted the business by making advertisement in various part of the city by using loud speakers on the vehicle. As rightly pointed out by the Ld. D.R., no proper vouchers were maintained by the assessee. In the absence of proper vouchers, the CIT(A) has restricted the disallowance to 20% claimed by the assessee. This Tribunal is of the considered opinion that the CIT(Appeals) has rightly restricted the claim to 20% by taking into consideration the material facts available on record. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority. Accordingly, the order of the CIT(Appeals) is confirmed.

25. The next ground of appeal arises for consideration is with regard to disallowance made in respect of exemption claimed under Section 10 of the Act.

26. Sh. A.B. Koli, the Ld. Departmental Representative, submitted that the assessee claims a sum of ₹1,68,000/- as exempted under Section 10 of the Act. In the absence of any details, the Assessing Officer disallowed the claim of the assessee. However, the CIT(Appeals) without any reason allowed the same.

27. On the contrary, Sh. N. Devanathan, the Ld.counsel for the assessee, submitted that the assessee claimed a sum of ₹1,68,000/- as exempted on the basis of Form 16A. The details of the exemption claimed were available in Form 16A itself. In fact, according to the Ld. counsel, the assessee claimed conveyance allowance of ₹9,600/- and uniform allowance of ₹42,000/-. The assessee has also claimed travelling allowance of ₹1,16,700/- as exempted. Considering the fact that the assessee had to travel for advertisement and such purposes, the expenditure claimed by the assessee was rightly allowed by the CIT(Appeals).

28. We have considered the rival submissions on either side and perused the relevant material available on record. The uniform allowance and conveyance allowance to the extent of ₹42,000/- and ₹9,600/- respectively have to be allowed since it is for the purpose of business or the employment carried out by the assessee. In

respect of travelling expenses, the claim of the assessee was that he had to travel for advertisement at many places in the city of Chennai. This Tribunal is of the considered opinion that while claiming expenditure for the commission, the assessee has claimed salary and other expenses for making advertisement. Therefore, it may not be correct to say that the assessee had to travel for advertisement purpose. In other words, the travelling expenses for making advertisement was included in the expenditure claimed by the assessee for commission receipt. Therefore, another claim of ₹1,16,700/- is not justified. Accordingly, the order of the CIT(Appeals) is set aside in respect of travelling allowance to the extent of ₹1,16,700/- and the Assessing Officer is directed to make addition of ₹1,16,700/- towards travelling expenses.

29. The next ground of appeal, which is common in all the appeals, i.e. of Shri Mustaq Ahmed and Shri Ishtiaq Ahmed, is with regard to charging of interest under Section 234B of the Act.

30. Sh. A.B. Koli, the Ld. Departmental Representative, submitted that interest has to be charged from the date of filing the return under Section 139(1) of the Act in the regular course. The CIT(Appeals) treating the return filed in response to the notice

issued under Section 153A of the Act, directed the Assessing Officer to compute the interest from the date of return filed consequent to the notice issued under Section 153A of the Act. According to the Ld. D.R., regular assessment means the assessment made under Section 143(3) of the Act, therefore, the original return filed under Section 139(1) of the Act has to be considered for the purpose of levy of interest under Section 234B of the Act.

31. On the contrary, Sh. N. Devanathan, the Ld.counsel for the assessee, submitted that after filing of return consequent to the notice issued under Section 153A of the Act, the return filed by the assessee has to be treated as if the return was filed under Section 139(1) of the Act. Hence, the return has to be filed under Section 139(1) of the Act and date of filing of return under Section 153A has to be taken for the purpose of computing interest. In fact, a similar view was taken by this Bench of the Tribunal in Kalyani Jayakumar in I.T.A. Nos.526 to 590/Mds/2010 dated 04.02.2011. The CIT(Appeals) directed the Assessing Officer only to follow the order of this Tribunal, therefore, no interference is called for.

32. We have considered the rival submissions on either side and perused the relevant material available on record. The question arises for consideration is levy of interest under Section 234B of the Act. In other words, whether interest has to be levied from the date of filing of original return under Section 143(1) or consequent to the notice issued under Section 153A of the Act. This Tribunal in the case of Kalyanai Jayakumar (supra) while considering this issue found that for all practical purpose, the return filed consequent to the notice issued under Section 153A has to be taken for computing interest under Section 234B of the Act. In fact, the CIT(Appeals) directed the Assessing Officer to compute the interest only on the basis of the order of the Tribunal in Kalyani Jayakumar (supra). Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority. Accordingly, the order of the CIT(Appeals) is confirmed.

33. In the result, Revenue's appeals in I.T.A. Nos.1676 to 1679/Mds/2013 are dismissed. However, appeal in I.T.A. No.1680/Mds/2013 is partly allowed.

Order pronounced on 7th January, 2016 at Chennai.

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| 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 7th January, 2016.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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